JUDICIAL COUNCIL COMMITTEES
(continued)

Advisory Committee on Riverside and San Bernardino County Experimental Sanction and Settlement Procedure
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Hon. Duke D. Rouse, Co-chairperson
Hon. William P. Hyde
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Mr. Caywood J. Borror
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Mr. Florentino Garza
Mr. Robert M. Holstein, Jr.
Mr. Stephan Gray Saleson
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Hon. Jean E. Matusinka
Hon. John J. Ryan
Hon. Peter Allen Smith
Ms. Linda Erwood
Mr. Jay B. Gaskill
Mr. Richard B. Lennon
Ms. Carolyn Lewinski
Mr. David H. Rose
Ms. Patricia K. Sepulveda
Ms. Holly D. Wilkens

Advisory Committee on Telephone Appearance Procedures
Hon. Norman L. Epstein, Chairperson
Hon. Stephen R. Henry
Hon. Stuart R. Pollak
Hon. Stanley C. Young, Jr.
Mr. Robert Charles Friese
Mr. Hugh Johnson
Mr. Martin J. Moshier

Advisory Committee on the Trial Court Improvement Fund
Hon. Hollis G. Best, Chairperson
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Hon. Richard A. Paez
Hon. Joanne C. Parrilli
Hon. Michael S. Ullman
Hon. Gregory M. Caskey
Mr. Winslow Christian
Ms. Sheila Gonzalez
Mr. Leonard S. Janofsky
Mr. Ronald L. Olson
Mr. Alan Slater
Ms. Grace K. Yamakawa
Hon. Ricardo A. Torres [6]
Hon. Susan P. Finlay [6]

Advisory Committee on Voir Dire
Hon. Ronald M. George, Chairperson
Hon. Carol A. Corrigan
Hon. Christopher C. Cottle
Hon. Nickolas J. Dibiaso
Hon. Harry L. Hupp
Mr. Lawrence P. Biggam
Mr. Arthur Danner III
Mr. Edward W. Hunt
Ms. Christine Patton
Mr. Jose Villareal
Mr. Arne Werchick
Mr. Fred Yamamoto

Governing Committee of the Center for Judicial Education and Research[7]
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Hon. Robert I. Weil, Vice-Chairperson[8]
Hon. Ira A. Brown[8]
Hon. Norman L. Epstein[9]
Hon. Arthur Gilbert[8]
Hon. Thomas M. Jenkins[8]
Hon. Rise Jones Pichon[9]
Hon. James L. Smith[9]
Mr. B. E. Witkin[3]

1 All listings reflect committee membership as of December 31, 1988.

2 Unless otherwise noted, members of this committee are members of the Judicial Council.

3 Advisory member.

4 Advisor.

5 One-half of the members of this committee are nominated by the State Bar for appointment by the Chairperson of the Judicial Council.

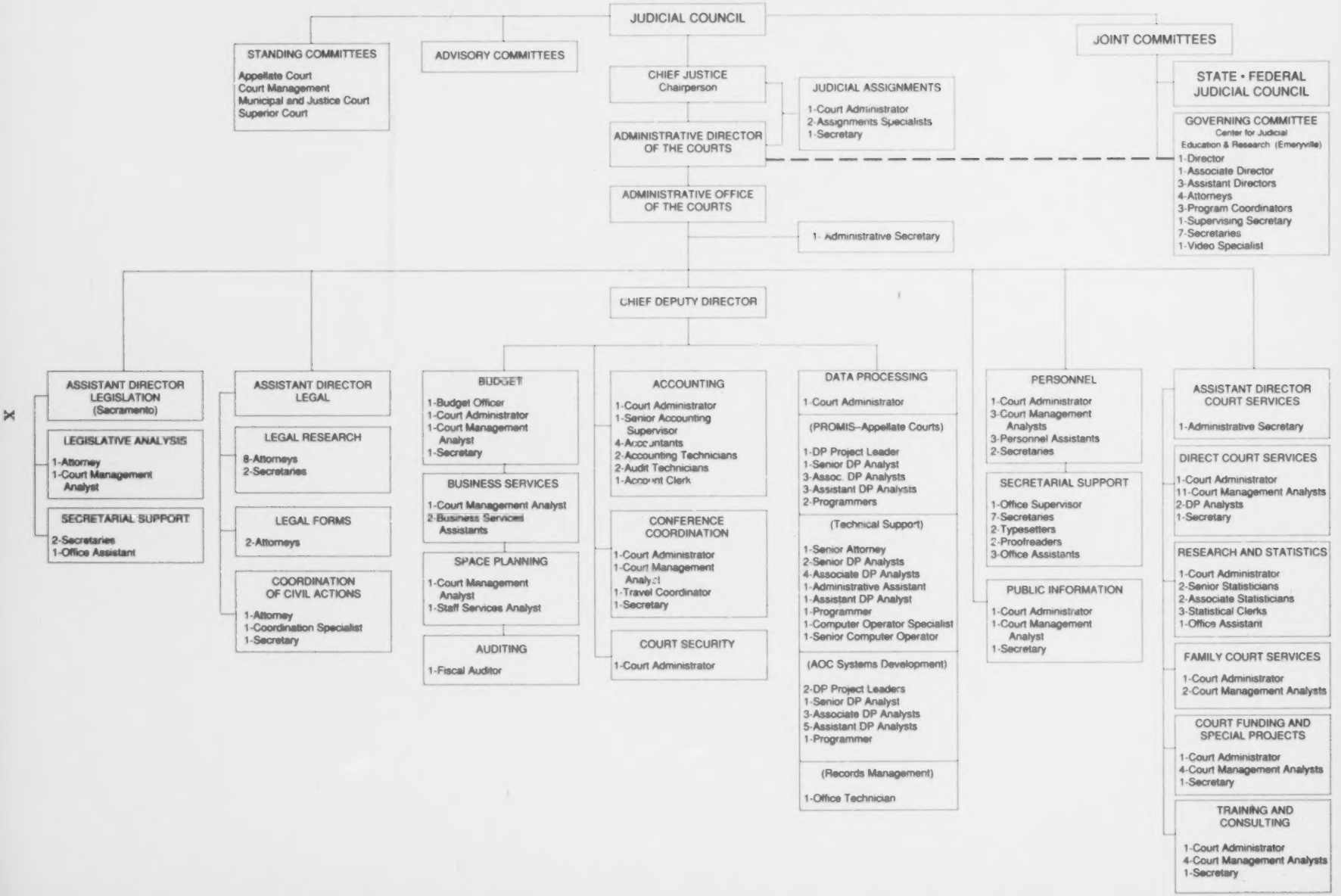
6 Judicial Council liaison.

7 An advisory committee appointed by the Chairperson of the Judicial Council with equal representation from the Judicial Council and the California Judges Association.

8 California Judges Association representative.

9 Judicial Council representative.

1988 JUDICIAL COUNCIL ORGANIZATION CHART



CHAPTER 1

REPORT OF THE

COURT MANAGEMENT COMMITTEE

In 1988, the Court Management Committee reaffirmed four key priorities, adopted one new priority and made a number of recommendations regarding delay reduction, trial court improvement and other major issues, which were approved by the Judicial Council of California. (See chapters 2, 3, and 4 for reports on other standing committees.)

Below is a description of actions taken by the Judicial Council on committee recommendations under each priority:

☐ *Seek to reduce delay in the trial courts*

New time standards:

Interim goals for processing civil and criminal cases in the superior courts previously adopted under the Trial Court Delay Reduction Act of 1986 were extended through December 31, 1988.

After statewide comment, new interim goals were adopted by the council effective January 1, 1989, to assist courts in phasing in the American Bar Association (ABA) case processing time standards recommended under the act. The council previously delayed the effective date of the ABA standards to July 1, 1991.

The council amended section 2.1 of the Standards of Judicial Administration to recommend that each superior court should process general civil cases to meet three goals: (1) by January 1, 1989, all cases should be disposed within four years of filing; (2) by January 1, 1990, all cases should be disposed within three years of filing; and (3) after January 1, 1991, all cases should be disposed within two years of filing.

The one-year felony case processing time standard (from the first appearance in any court to disposition) adopted in 1987 was extended and may be reevaluated when the council considers time standards for the lower courts. The council excepted death penalty cases from the one-year felony standard.

The new interim standards also recommend that each superior court should dispose of at least as many cases as are filed each year and, if necessary to meet the case processing standards, dispose of more cases than are filed.

Chapter 8 provides a status report on reducing delay in California courts under the Trial Court Delay Reduction Act of 1986.

New and proposed rules

The council amended rule 225 of the California Rules of Court, effective January 1, 1989, to require dismissal of cases 45 days after notice of settlement, and to require a notice of stay and a notice if stay is vacated. Amended rule 225 will assist courts in identifying inactive cases from the active cases that may require judicial attention.

The council authorized publication for statewide comment of the text of proposed new rule 372 under sections 583.410(b) and 583.420 (a)(2)(B) of the Code of Civil Procedure, which would permit discretionary dismissal for delay in prosecution if an action is not brought to trial within two years.

The council amended rule 982 effective July 1, 1988, to expressly permit the filing of legal forms reproduced by a laser printer or by other new technologies. The amendment also provides that a party or attorney by the act of filing any form certifies that the form is a true and correct copy.

Legislative developments

The council reviewed and took a position on proposed "clean up" amendments to the Trial Court Delay Reduction Act of 1986 under Assembly Bill No. 3830 (Stats. 1988, ch. 1200).

It supported Assembly Bill No. 2617 (Stats. 1988, ch. 1245) to reorganize and improve statutes governing jury service.

The council directed staff to seek legislation that would (a) amend section 170.6 of the Code of Civil Procedure to provide that a peremptory challenge must be made within 10 days after notice that a judge has been assigned to a case and (b) amend section 396 of the Code of Civil Procedure to provide the superior court with the power to transfer a case to a lower court no later than 30 days before trial if it is reasonably likely that any judgment rendered will be within the jurisdictional limits of the lower court.

It also directed staff to seek legislation to amend the law on compensation of assigned judges (Gov. Code, § 68540 et seq.) to provide a centralized system within the Administrative Office of the Courts to administer payment of all salaries and expenses for assigned judges. (See chapter 10 for a report on judicial assignments.)

Advisory committee review

Under the Juror Voir Dire Pilot Project in the Fresno and Santa Cruz County Superior Courts that was established by Penal Code section 1078, the council authorized staff to send a survey concerning voir dire to attorneys and judges.

The council also directed staff to seek legislation to extend the voir dire pilot project to the municipal and justice courts in these counties.

The Advisory Committee on Voir Dire is monitoring the three-year pilot project established by the legislation and will assist the council in preparing a report to the Legislature. (See chapter 6 for a report on the Advisory Committee on Voir Dire.)

The council directed staff to study the concept of a merged single trial court in rural counties proposed by a superior court presiding judge and to analyze the legal questions and operational issues.

The proposal resulted in the appointment of the Advisory Committee on the Administration of Justice in the Rural Counties. (See chapter 6 for a report on the advisory committee.)

- *Implement state funding of the trial courts*

Informational reports on the status of the Trial Court Funding Act of 1985 (Stats. 1985, ch. 1603 as amended by Stats. 1987, ch. 1211 and repealed and replaced by Stats. 1988, chs. 944 and 945, the Brown-Presley Trial Court Funding Act) were received.

Rule 810 was adopted to clarify the meaning of "court operations" as stated in the act (under former Gov. Code, sec. 77001(c)) and a Judicial Council List of Approved Costs referred to in rule 810 was adopted. Rule 810 was later amended to conform to changes in replacement legislation (Gov. Code, § 77003).

The policy that probation services, indigent criminal defense, and pretrial release services are to be funded from the block grants in counties with a population of 350,000 or less, only after the direct needs of the courts have been met, was adopted. (See chapter 7 for a report on state trial court funding.)

Staff was directed to conduct a pilot survey on the "nature and quantity" of work performed by commissioners, referees and attorney temporary judges in option counties under legislation that was subsequently repealed (Gov. Code, § 77202(b)). The survey was conducted and staff was directed to review the results.

The Legislature provided $1 million for the Trial Court Improvement Fund (Stats. 1988, ch. 944) to be disbursed through grants administered by the Judicial Council during the last half of the 1988-89 fiscal year.

Status reports from the Advisory Committee on the Trial Court Improvement Fund were reviewed. After evaluation of concept papers for grant proposals submitted by the courts and upon recommendation of the advisory committee, the council conditionally approved the grant application for the Multi-Court Automation Project to Reduce Court Delay. (See chapter 6 for a report on the advisory committee.)

□ *Improve the methods used to prepare weighted caseload studies and judgeship needs reports*

The assumptions and statistical bases of the weighted caseload system and various problems in the production of judgeship needs reports continue to be studied.

Informational reports on development of a proposed alternate system under the Court Profiles project were reviewed. See chapter 9 for a report on weighted caseload studies and the court profiles project.

□ *Increase the use of automation in the trial courts*

Audio and video recording

Staff was directed to seek legislation to (a) allow proceedings in superior courts to be electronically recorded if a court reporter is unavailable, and (b) amend Government Code section 72194.5 to allow electronic recording in all municipal and justice court proceedings if a court reporter is unavailable.

Staff was further directed to encourage pilot project superior courts to implement the video portion of the audio and video recording demonstration project under Code of Civil Procedure section 270 so that the Judicial Council can conduct its legislatively mandated study. See chapter 11 for a report on the demonstration project.

STATSCAN project

An independent evaluation of the STATSCAN automated system that uses bar coding and scanners to enter data for statistical reporting and case management purposes was reviewed.

The council also viewed a videotape demonstrating use of STATSCAN in the California court system.

Retention and destruction of court records

Staff was directed to meet with interested groups to study the needs of all users of court records and to propose to the council a comprehensive records retention policy for legislative consideration.

Court Management Committee[1]

Hon. Roy L. Wonder, Chair[2]
Judge, Superior Court
City and County of San Francisco

Hon. Mildred L. Lillie
Presiding Justice, Court of Appeal
Second Appellate District,
Division Seven

Hon. Robert K. Puglia
Presiding Justice, Court of Appeal
Third Appellate District

Hon. Ricardo A. Torres[3]
Judge, Superior Court
Los Angeles County

Hon. Robert D. Mackey
Judge, Municipal Court
Compton Municipal Court District

Hon. Cerena Wong
Judge, Municipal Court
Sonoma County Municipal Court District

Hon. Jane A. York
Judge, Justice Court
Sanger Justice Court District

Hon. Elihu M. Harris
Member of the Assembly

Mr. David M. Heilbron
Attorney at Law, San Francisco

Mr. Peter J. Hinton[4]
Attorney at Law, Walnut Creek

Mr. Don W. Martens[5]
Attorney at Law, Newport Beach

Mr. Len LeTellier[6]
Association for Superior
Court Administration
Executive Officer-Jury
Commissioner, Superior Court
Contra Costa County
Advisory Member

1 This list reflects the committee's membership as of December 31, 1988.
2 Appointed by the Chief Justice on October 5, 1988, vice Hon. Harmon G. Scoville.
3 Appointed by the Chief Justice on October 5, 1988, vice Hon. William D. Stein.
4 Appointed by the Chief Justice on October 5, 1988.
5 Appointed by the Chief Justice on January 20, 1988, vice Mr. David B. Baum.
6 Appointed by the Chief Justice on October 5, 1988, vice Mr. Alan Carlson.

- *Provide increased training and technical assistance to judges and court staffs on reducing delay and implementing the Trial Court Delay Reduction Act*

The following is a list of delay reduction training and technical assistance provided after this priority was adopted in June of 1988:

A five-day mid-level management conference entitled "Developing Management Skills—Training and Techniques" for all trial courts; statistical reporting training workshops for superior and lower courts (four days); STATSCAN statistical training workshop (two days); exemplary delay reduction pilot and volunteer court meetings for judges, court administrators, clerks and attorneys to evaluate progress under the delay reduction project and to discuss case management techniques.

In December 1988, 22 attorneys were appointed by the State Bar to join in the consortium on delay reduction (tri-yearly; one- and two-day meetings conducted); superior and municipal court presiding judges' meeting (one day); renewed on-site technical assistance and training in STATSCAN for exemplary delay reduction pilot and volunteer courts.

Other Actions and Recommendations

On the committee's recommendation, the Judicial Council revised the conflict of interest code for the Administrative Office of the Courts employees, adopted new and revised rules of court governing the discipline of judges (see chapter 5 for a report on the Advisory Committee on Judicial Performance Procedures), and received and considered a status report on the ongoing study of gender bias in the court system. (See chapter 6 for a report on the Advisory Committee on Gender Bias in the Courts.)

CHAPTER 2

REPORT OF THE

APPELLATE COURT COMMITTEE

During 1988, delay reduction on appeal, especially in cases involving the welfare of minors, continued to head the list of Appellate Court Committee priorities. The committee made a number of recommendations regarding these and other key issues, which were approved by the Judicial Council of California. The committee's priorities, as approved by the council, are:

- ☐ *Reduce delay on appeal*
  The committee is studying methods for expediting matters on appeal, including the possible development of time standards for appeals.
- ☐ *Continue the "appellate automation project"*
  Programs implementing automation technology in the appellate courts will continue.
- ☐ *Review standards for computing the need for judges in the Courts of Appeal*
- ☐ *Review the organization and staffing of the Courts of Appeal*
  The committee may examine existing council policies with respect to the Courts of Appeal, including use of central staff attorneys.
- ☐ *Review procedures in cases involving the welfare of minors*
  The committee is studying legislation mandating rules for an expedited appeal in juvenile dependency, adoption and freedom from custody cases.

- *Review and reorganize the rules on appeal*
  The committee is considering a study of the rules on appeal, including a proposal by the Appellate Court Clerks' Association for a complete restatement of these rules.
- *Development of information sheet and related forms*
  The committee is considering the development of a standard information sheet to facilitate classification of appeals at inception. It is also considering the development of forms and rules to facilitate appointment of counsel for indigent appellants in criminal cases.

Actions and Recommendations

The Appellate Court Committee considered a number of proposals related to the above priorities and to current matters of interest and made the following recommendations to the Judicial Council:

Recommendations on Committee Priorities

Reducing delay on appeal

At the suggestion of the administrative presiding justices of the Courts of Appeal, the committee recommended publication of proposals to give reviewing courts more control over the time allowed for various steps in civil appeals and to shorten the time allowed for some steps. The delay reduction proposals under active consideration are:

- *Rule 2*
  Reduce the time to file a civil notice of appeal.
- *Rule 4*
  Require service of the designation of the record on the reporter and paying its estimated cost at time the designation is filed.
- *Rules 8 and 35*
  Eliminate the step of holding the record in the trial court for possible correction, except in death cases.
- *Rules 16 and 37*
  Change briefing times to 40-40-30 days; limit the parties' authority to stipulate to extensions.
- *Rule 17*
  Repeal the requirements of notice and a grace period before a court can act on a failure to file briefs on time.
- *Rule 35*
  In some cases, make the event that triggers the reporter's duty to start transcript be the finding of guilt.
- *Rule 45*
  Require the client's written endorsement of any request for extension.
- *Rule 45(b)*
  Take away trial court authority to grant extensions for any step in the appellate process in civil appeals as is already true in criminal cases.
- *New Rule 45.5*
  Adopt standards for time extensions in briefing as recommended by the California Academy of Appellate Lawyers.
- *New section 25 of Standards of Judicial Administration*
  Establish a time standard for prompt submission of an appeal after completion of briefing.

The committee also asked staff to explore means of reducing the time taken for preparation of reporters' transcripts.

Cases involving welfare of minors

The committee approved the rules governing a statutorily authorized four-year pilot project in Orange County to assure the prompt resolution of appeals from judgments freeing minors from parental control so they can be adopted.

Appellate automation project

The committee heard an annual report on the appellate automation project, and noted in particular that the issue tracking system is being implemented.

Other Actions and Recommendations

The Appellate Court Committee reviewed several proposals for changes in the rules on appeal and recommended they be published for further comment. Several proposals were pending at year end.

The committee also devoted substantial time to legislative proposals, including a bill to change the jurisdiction of appeals from the Public Utilities Commission; a bill affecting the Supreme Court's review of State Bar discipline cases by modifying the bar's discipline procedures; and a bill proposing a constitutional amendment changing Commission on Judicial Performance procedures.

Appellate Court Committee[1]

Hon. David N. Eagleson,
Chair
Associate Justice,
Supreme Court

Hon. Donald B. King
Associate Justice,
Court of Appeal
First Appellate District,
Division Five

Hon. Mildred L. Lillie
Presiding Justice,
Court of Appeal
Second Appellate District,
Division Seven

Hon. Robert K. Puglia
Presiding Justice,
Court of Appeal
Third Appellate District

Hon. Richard P. Byrne[2]
Presiding Judge,
Superior Court
Los Angeles County

Hon. Bill Lockyer
Member of the Senate

Mr. David M. Heilbron
Attorney at Law, San Francisco

Mr. Don W. Martens[3]
Attorney at Law, Newport Beach

Mr. Kenneth W. Larson
Attorney at Law, San Pablo

Mr. Bernard E. Witkin
Advisory Member

Mr. Kevin A. Swanson
Appellate Court
Clerks' Association
Clerk of the Court,
Court of Appeal
Fifth Appellate District
Advisory Member

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1 This list reflects the committee's membership as of December 31, 1988.

2 Appointed by the Chief Justice on April 12, 1988, vice Hon. Jack E. Goertzen.

3 Appointed by the Chief Justice on April 12, 1988, vice Mr. David B. Baum.

CHAPTER 3

REPORT OF THE

SUPERIOR COURT COMMITTEE

During 1988, the Superior Court Committee identified court record production and the use of private judges as important issues for committee consideration and added these subjects to its existing list of priorities. The committee's amended priorities, as approved by the Judicial Council, are:

- *Study all local rules, beginning with family law and proceeding to other areas of practice, with the goal of eliminating unnecessary variations in local practice and procedure*
- *Review family law procedures and study the need to create a special court for family law, juvenile law, and guardianship proceedings*
- *Study determinate sentencing procedures and examine ways to simplify their technical aspects*
- *Study the use of alternative dispute resolution and its enforceability, including the use of private judges and the effect on the court system*
- *Review calendar management procedures*
- *Study ways to improve court record production, including use of electronic reporting equipment*
- *Study issues related to mental health proceedings, including proceedings relating to children*

Actions and Recommendations

The Superior Court Committee made recommendations regarding these priorities and took the following actions:

Recommendations and Actions on Committee Priorities

Local rules
The committee reviewed projects to reduce unnecessary variations in local practice and procedure in the areas of trial court delay reduction, family law, telephone appearance fees, civil trial rules, and the form and format of papers. The council requested the Chief Justice to appoint an advisory committee on local rules to examine local practice and procedures in superior court proceedings, excluding family and juvenile court law. An Advisory Committee on Local Court Rules was appointed in December 1988.

Family law and juvenile court procedures; special family court
The Advisory Committee on Juvenile Court Law was appointed and held its first meeting in June 1988. The Juvenile Court Advisory Committee and the Family Law Advisory Committee began a study of the relationship between family law, juvenile, and guardianship proceedings. The committees will make a report to the council in 1989. Reports on specific activities of the Family Law and Juvenile Court advisory committees are included in chapter 6.

Sentencing
The Chief Justice appointed an Advisory Committee on Sentencing, which held its first meeting in September 1988. The committee plans to reexamine the sentencing rules and review legislative proposals to simplify the sentencing process. A report on the activities of the Advisory Committee on Sentencing is included in chapter 6.

Private judges and alternate dispute resolution
The committee directed staff to conduct a study on the use of private judges and make a report to the council in 1989. Policy concerns relating to the use of public facilities, court personnel, juries, handling of court files, and appellate rights will be considered. The committee received reports on recommended criteria for determining recipients of grant applications relating to family mediation.

Calendar management procedures
The committee recommended and the council adopted rule changes relating to calendaring procedures to assist courts with delay reduction programs. Rule 224 was repealed to delete the master calendar requirement for civil cases in courts with three or more judges and a new rule 224 was adopted to give each court discretion to adopt a calendaring system that will advance the goals of caseflow management and delay reduction.

Other Actions and Recommendations

The Superior Court Committee also recommended, and the council approved, new and amended rules and forms, including:

- A mandatory *Application for Emergency Protective Order* form and an *Emergency Protective Order* form to implement a new law on telephonic emergency protective orders
- Revised instructions for orders prohibiting domestic violence
- Mandatory and optional family law and probate forms to conform to recent legislation
- Revised request for entry of default and writ of execution forms
- A rule amendment repealing after two years the provisions permitting use of computer and word processor printed family law forms and making permanent the provisions permitting use of computer and word processor printed proof of service forms
- Amendments to the juvenile court rules to conform to recent legislative changes
- Technical amendments to the Standards of Judicial Administration concerning voir dire in eminent domain cases to conform to current law
- Amendments to the rules and Standards of Judicial Administration on telephone appearance procedures
- A rule to implement 1988 legislation providing for experimental project on appeals from termination of parental rights proceedings in Orange County

Superior Court Committee[1]

Hon. Richard P. Byrne, Chair[2]
Presiding Judge, Superior Court, Los Angeles County

Hon. Donald B. King
Associate Justice, Court of Appeal, First Appellate District, Division Five

Hon. Cecily Bond[3]
Presiding Judge, Superior Court, Sacramento County

Hon. Henry Ramsey, Jr.[4]
Judge, Superior Court, Alameda County

Hon. Susan P. Finlay[5]
Presiding Judge, Municipal Court, South Bay Municipal Court District

Hon. Robert A. Barclay
Judge, Justice Court, Modoc Justice Court District

Hon. Bill Lockyer
Member of the Senate

Mr. Kenneth W. Larson
Attorney at Law, San Pablo

Mr. Howard Hanson
County Clerks' Association
County Clerk—Court Administrator, Marin County
Advisory Member

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1 This list reflects the committee's membership as of December 31, 1988.

2 Appointed by the Chief Justice on April 12, 1988, vice Hon. Jack E. Goertzen.

3 Appointed by the Chief Justice on October 5, 1988, vice Hon. Jack R. Levitt.

4 Appointed by the Chief Justice on October 5, 1988, vice Hon. Fern M. Smith.

5 Appointed by the Chief Justice on October 5, 1988, vice Hon. Lourdes Gillespie Baird.

CHAPTER 4

REPORT OF THE

MUNICIPAL AND JUSTICE COURT COMMITTEE

State funding, trial court delay, and rural court issues were among the subjects considered by the Municipal and Justice Court Committee in 1988 The committee's amended priorities were approved by the Judicial Council in 1988 as follows:

- ☐ *Formulate a plan to implement state funding of the trial courts*
- ☐ *Reevaluate the policy of justice court consolidation and study the role of assigned justice court judges*
- ☐ *Review the council's role in traffic and small claims courts and develop methods for streamlining procedures and increasing these courts' responsiveness to the public*
- ☐ *Study the use of commissioners, referees, and temporary judges and recommend ways to improve their training*
- ☐ *Explore methods for expanding training programs for nonjudicial personnel in municipal and justice courts, including increased training and technical assistance in implementing the Trial Court Delay Reduction Act*
- ☐ *Study the application of the American Bar Association standards on trial delay reduction to the municipal and justice courts*

Actions and Recommendations

The Municipal and Justice Court Committee took the following action and made the following recommendations with regard to the priorities listed above:

Recommendations on Committee Priorities

State funding of the trial courts
The committee recommended, and the council adopted effective July 1, 1988, rule 750 to compute judicial workload in justice courts for use in determining block grants under the Trial Court Funding Act.

Court consolidation and assignment of justice court judges
Following a committee recommendation, the Chief Justice appointed the Advisory Committee on the Administration of Justice in the Rural Counties in July 1988 to consider issues affecting the administration of justice in rural areas. Topics to be studied include a proposal to restructure the lower court system, state policy on consolidation of justice courts, Code of Civil Procedure section 170.6 abuse issues, indigent defense services, and education and training needs of vertically assigned judges.

Upon recommendation of the Advisory Committee on the Administration of Justice in the Rural Counties, the Municipal and Justice Court Committee approved a report proposed pursuant to Government Code section 71042 on the consolidation of judicial districts in Kings County, but deferred approval of any other pending or future consolidation reports until March 1989.

The committee reviewed a draft supplemental report to the Legislature on the circuit judge program. The council's request for funds to support up to 30 circuit justice court judge positions, which was denied by the Legislature in its 1988-89 session, will be renewed in the 1989-90 session.

The committee also approved a proposal to offer contracts for full-time service to a number of retired justice court judges otherwise eligible to serve on assignment.

Traffic and small claims
The committee received a staff report on the 1988 Traffic Adjudication Workshop, conducted in January 1988 and attended by more than 100 municipal court commissioners and referees and juvenile traffic hearing officers.

To implement recent legislation, the committee recommended, and the council adopted effective July 1, 1988, a form for Notice of Delinquent Parking Violation and a form for Notice to Court of Trial Court. The committee also recommended, and the council adopted effective January 1, 1989, the revised uniform traffic bail schedule and it amended rule 850 to encourage municipal and justice courts in the annual revision of local bail schedules to require additional bail for aggravating or enhancing factors.

The committee requested staff to study proposals to revise the Uniform Traffic, Uniform Traffic/Nontraffic, and Uniform Nontraffic Citation forms.

In response to recent legislation increasing the monetary jurisdiction limit in small claims court actions, the committee recommended, and the council adopted effective January 1, 1989, revised small claims forms SC-100 (Plaintiff's Claim and Order to Defendant), SC-110 (Plaintiff's Claim and Order to Defendant-Unlawful Detainer), and SC-150 (Jurisdictional Amount Information Sheet). The committee also requested the Chief Justice to appoint an advisory committee to work with the Advisory Committee on Legal Forms to conduct a comprehensive review of all small claims forms.

Use of commissioners, referees and temporary judges—training
Action under this subject was deferred pending a review by the Court Management Committee of the results of a pilot survey conducted in fall 1988 on the work performed by commissioners, referees, and temporary judges.

Training nonjudge personnel
The committee reviewed training programs sponsored by the Administrative Office of the Courts for nonjudge personnel including a mid-level management conference conducted in July 1988 entitled "Developing Management Skills—Training and Techniques." More than 400 mid-level supervisory court personnel from superior, municipal, and justice courts attended the program.

Delay reduction in the lower courts
The committee reviewed and approved the design of a statistical study to collect information on the pace of litigation in the lower courts. The study may provide the basis for a recommendation on realistic and attainable case-processing time standards. Proposed case-processing time standards for the lower courts are scheduled to be circulated for statewide comment in spring 1989 and new time standards are expected to be adopted effective January 1, 1990.

The committee also requested staff to study a proposal to seek legislation amending Penal Code section 977(a) to require misdemeanor defendants to attend court proceedings under specified circumstances.

Other Actions and Recommendations

The committee reviewed and authorized staff to circulate for statewide comment a report entitled "1986 Municipal Courts' Judicial Weighted Caseload Study." Following the comment period, the committee will consider adopting the results of the study for interim use in conducting judgeship needs studies, starting January 1, 1989.

The committee also recommended, and the council approved effective November 3, 1988, the proposed Uniform Rules for the Los Angeles County Municipal Courts as submitted by the Los Angeles Municipal Court Judges' Association pursuant to Government Code sections 72624 and 72621. In addition, the committee received reports on the status of the Eight-Member Jury Pilot Project in the Los Angeles County Municipal Courts, and on the San Luis Obispo Municipal Court's voluntary delay reduction program.

Municipal and Justice Court Committee[1]

Hon. Susan P. Finlay, Chair[2]
Presiding Judge,
Municipal Court,
South Bay Municipal Court District

Hon. Cecily Bond[3]
Judge, Superior Court,
Sacramento County

Hon. Henry Ramsey, Jr.[4]
Judge, Superior Court,
Alameda County

Hon. Ricardo A. Torres
Judge, Superior Court,
Los Angeles County

Hon. Robert D. Mackey
Judge, Municipal Court,
Compton Municipal Court District

Hon. Cerena Wong
Judge, Municipal Court,
Sonoma County Municipal Court District

Hon. Robert A. Barclay
Judge, Justice Court,
Modoc Justice Court District

Hon. Jane A. York
Judge, Justice Court,
Sanger Justice Court District

Hon. Elihu M. Harris
Member of the Assembly

Mr. Peter J. Hinton[5]
Attorney at Law
Walnut Creek

Mr. Wayne Low[6]
Association of Municipal Court Clerks
Clerk—Administrative Officer
San Leandro-Hayward Municipal Court District
Advisory Member

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1 This list reflects the committee' membership as of December 31, 1988.

2 Appointed by the Chief Justice on October 5, 1988, vice Hon. Lourdes Gillespie Baird.

3 Appointed by the Chief Justice on October 5, 1988, vice Hon. Jack R. Levitt.

4 Appointed by the Chief Justice on October 5, 1988, vice Hon. Fern M. Smith.

5 Appointed by the Chief Justice on January 20, 1988, vice Mr. Joseph H. Cummins.

6 Appointed by the Chief Justice on January 20, 1988, vice Ms. Sheila Gonzalez.

CHAPTER 5

ADVISORY COMMITTEE ON

JUDICIAL PERFORMANCE PROCEDURES

The Judicial Council of California approved the report of its Advisory Committee on Judicial Performance Procedures at the November 1988 meeting.

The committee, appointed by Chief Justice Malcolm M. Lucas and chaired by retired Presiding Justice Richard Schauer (Court of Appeal, Second District, Division Seven), recommended several changes in the rules and procedures governing proceedings before the Commission on Judicial Performance. The Judicial Council is constitutionally empowered to make rules for the commission. (See Cal. Const., art. VI, § 18(f).)

The committee's recommendations followed an extensive review of pending proposals affecting judicial discipline. The committee's proposals were widely circulated to interested groups and individuals for comments and suggestions.

The council also extended the advisory committee's work for one year, authorizing it to monitor the need for any further changes in the rules, including those relating to confidentiality in commission proceedings.

Rule changes concerning confidentiality may be required because of the passage of a constitutional amendment, effective November 9, 1988. The amendment (Senate Const. Amend. No. 6, Stats. 1988 (Reg. Sess.) res. ch. 67) permits open commission hearings in certain cases in the commission's discretion and also permits the commission greater latitude in issuing press releases. The amendment further creates a new public reproval procedure and staggered terms for commission members.

Approved Recommendations

The Judicial Council approved the advisory committee recommendations summarized below.

Public reproval
(Cal. Const., art. VI, § 18)
The council approved a proposal recommended by the advisory committee and submitted by the Commission on Judicial Performance which added the option of public reproval or admonishment to the possible forms of discipline. Under this option, the commission can publicly reprove a judge for any conduct otherwise warranting discipline. The penalty can be used only with the consent of the judge, and no review by the Supreme Court is permitted. The proposal was contained in the constitutional amendment referred to above, adopted by the Legislature, and approved by the voters in the November 1988 election.

Adjustment of commission terms
(Cal. Const., art. VI, § 18)
The council approved a second proposal recommended by the advisory committee and submitted by the commission that was designed to create staggered commission terms over time and provide for continuity of membership. The proposal amended the section of the constitution which sets members' terms to temporarily adjust the length of the existing unstaggered terms of certain commission members to create a staggered effect, and to provide for continuing service on the commission by a member whose term has expired until the vacancy created has been filled. This proposal was also contained in the constitutional amendment enacted in the 1988 election.

Confidential advisory letter
(rules 904.1 and 904.2)
Upon recommendation of the advisory committee, the council adopted a rule that codifies an existing commission practice of issuing a confidential advisory letter in an appropriate case after either a staff inquiry or a preliminary investigation. The advisory letter serves a warning or counseling function for judges whose conduct is not severe enough to warrant further action.

Clarification of the procedures for commencing a commission proceeding and for private admonishment
(rules 904 through 904.5)
The council adopted recommended rule changes that:

- clarify the initial steps of a commission proceeding (rules 904(a) and (b));
- provide for notice to the judge's residence address or to an address designated by the judge (rule 904.4);
- provide, under certain circumstances, for notification to the judge of the existence of a complaint and its disposition (rule 904(c));
- provide for termination and notice of termination to the judge when a staff inquiry does not result in any action by the commission (rule 904.1);
- delete the requirement that limits the commission to no more serious penalty than private admonishment if a judge contests the commission's notice of intended private admonishment (rule 904.5); and
- create an observation period not to exceed two years during a preliminary investigation (rule 904.2(d)).

Submitted matters in the trial courts
(rules 825, 205.1, and 532.6)
Recommended new rules were adopted that would define submission of a cause in the trial courts and impose a duty upon presiding and sole judges of trial courts to monitor and supervise causes under submission.

The council also approved a recommended modification of the salary affidavits executed by judges to more accurately reflect the requirements of the law governing submitted matters.

Confidentiality
The committee's deliberations on the issue of confidentiality were substantially affected by the pending constitutional amendment relating to commission matters since its provisions provide for open commission hearings under certain circumstances. As a result of the amendment's enactment, the Judicial Council took no action on a series of recommended rule changes that would have altered the procedures governing confidentiality in commission proceedings. The advisory committee will monitor the operation of the new constitutional provisions to determine whether any further rule changes may be necessary in the future.

Discovery in commission proceedings
(rules 907.5 and 915)
The council adopted the advisory committee's proposal creating new rules governing discovery in commission proceedings that

- generally track the language of all but two of the existing commission policy statements on discovery (rule 907.5);
- provide under limited circumstances for disclosure of information favorable to the judge (rule 907.5);
- provide for depositions, in a manner similar to the rule in other administrative proceedings, when a material witness is unable or cannot be compelled to attend the hearing (rule 907.5); and
- permit a continuance for good cause to conduct reasonable discovery (rule 915).

Miscellaneous new and amended provisions
(rules 904.6, 909, and 920)
The council also adopted miscellaneous recommended rule changes that

- provide for the use of commission records and a records retention program in conformity with the statute of limitations contained in the constitution (rule 904.6);
- provide for the use of the California Evidence Code in commission proceedings (rule 909(a)); and
- amend the procedures for petitions for review of private admonishment to correct several technical defects (rule 920).

Rule-making authority retained by Judicial Council
The commission initially suggested that rule-making authority in matters of judicial conduct be transferred from the council to the commission itself. The advisory committee recommended, and the council concurred, that the council retain its rule-making power in commission matters. The commission performs investigatory, prosecutorial, and adjudicatory duties relating to complaints against judges. The advisory committee did not support adding an additional legislative function to the commission's existing powers.

Editor's Note

Copies of the full advisory committee report are available upon written request to the Administrative Office of the Courts, 350 McAllister, Room 3154, San Francisco, CA 94102.

Advisory Committee on Judicial Performance Procedures

Hon. Richard Schauer,
Chair; Retired Presiding Justice,
Court of Appeal,
Second Appellate District,
Division Seven

Hon. Harmon G. Scoville
Presiding Justice,
Court of Appeal,
Fourth Appellate District, Division Three,
Santa Ana

Hon. Elwood Lui
Retired Associate Justice,
Court of Appeal,
Second Appellate District,
Division Three,
Los Angeles

Hon. David M. Rothman
Judge, Superior Court,
Los Angeles County

Hon. William P. Hogoboom
Retired Judge, Superior Court,
Los Angeles County

Hon. Thomas Konsgaard
Retired Judge, Superior Court,
Napa County

Hon. Susan P. Finlay
Judge, Municipal Court, South Bay Municipal Court District

Mr. Dale Hanst
Attorney at Law
Santa Barbara

CHAPTER 6

JUDICIAL COUNCIL ADVISORY COMMITTEES

Government Code section 68501 permits the Chairperson of the Judicial Council to appoint "committees composed of judges, retired judges, attorneys and experts in specialized fields, or any combination thereof, to advise with the Judicial Council in studying the condition of business in the several courts and the means for simplifying and improving the administration of justice and in the performance of any other duties of the council authorized or imposed by law."

The Judicial Council does most of its work through standing and advisory committees. The four standing committees comprise Judicial Council members and their membership changes along with council membership.

The advisory committees generally consist of noncouncil members appointed for the duration of a specific project or study. Their reports and recommendations usually are received by a standing committee and forwarded to the Judicial Council for action.

This chapter contains summaries of the mandates, priorities and activities of the council's 13 advisory committees.

Advisory Committee on the Administration of Justice in the Rural Counties

The many changes that have occurred since the last in-depth study of the lower courts of California in 1949 (see Judicial Council of Cal., 14th Biennial Rep. to the Governor and the Legislature (1953)), and the serious challenges facing the justice system today, underscore the need for a comprehensive state-level review of policies and goals.

On April 22, 1988, a small "working group" of judges and court clerks from rural counties met to begin to identify issues for the Judicial Council to address in developing priorities and long-term goals on the structure and administration of the courts serving rural areas. A wide range of issues and problems were identified.

The group determined that an advisory committee comprising judges and nonjudicial staff from superior, municipal and justice courts, as well as representatives from law enforcement and other agencies, should systematically study the issues.

Responding to a recommendation adopted by the Judicial Council, the Chief Justice in July appointed 16 members to this committee. In October, an additional member was named. The committee was charged to conduct a comprehensive statewide review of rural county courts with particular focus on: the structure, organization and support of the rural court system; the management of judicial resources and priorities for the use of those resources; and the need for judges who are available to accept assignments to the courts statewide.

The committee held four meetings. Initial activities included organizing the issues and developing a study plan.

The committee, which anticipated the passage of Proposition 91[1] and wished to address other key problems, unanimously agreed to give highest priority to the study and development of a proposal to restructure the lower court system. This study includes a reevaluation of state policy on consolidation of justice courts.

In October 1988, Sheldon Portman, Chair of the State Bar Commission on the Delivery of Legal Services to the Indigent Accused, addressed the committee on the purpose of the commission and the need for assistance in collecting data relating to indigent defense services.

In 1988, the Judicial Council Municipal and Justice Court Committee approved a plan to survey justice court judges who serve on assignment to determine the need for educational opportunities relating to specialized areas of the law not generally applicable to justice courts.

Advisory Committee on the Administration of Justice in the Rural Counties

Hon. Warren C. Conklin, Chair
Judge, Superior Court,
San Luis Obispo County

Hon. Robert A. Barclay,
Vice-chair
Judge, Justice Court,
Modoc Justice Court District

Hon. John E. Buffington
Judge, Superior Court,
Humboldt County

Hon. John J. Golden
Judge, Superior Court,
Lake County

Hon. Donald R. Kennedy
Judge, Superior Court,
Shasta County

Hon. Donna Petre
Judge, Municipal Court,
Yolo County Municipal
Court District

Hon. Thomas A. Smith
Judge, Municipal Court,
El Dorado County Municipal
Court District

Hon. Anthony W. Ishii
Judge, Justice Court,
Parlier-Selma Justice
Court District

Hon. John L. Loomis
Judge, Justice Court,
Trinity County Justice
Court District

Ms. Kim Frayer
Executive Officer
Lassen County Superior Court

Mr. Robert Wandruff
Clerk of the Supreme Court

Ms. Roberta March
Clerk
Calaveras Justice Court District

Mr. John P. Sloane
Clerk
Bear Valley Justice Court District

Mr. Dave Richmond
District Attorney
Amador County

Mr. Louis S. Haffner
Public Defender
Yolo County

Mr. Phil D. Eoff
Sheriff
Shasta County

Mr. Toby Dickinson
Chief Probation Officer
Inyo County

1 Passed by the electorate in the November General Election, Proposition 91 declared justice courts to be courts of record and prohibited the practice of law by justice court judges.

The committee recommended that presiding judges also be surveyed for their evaluation of the need for specialized education for assigned judges.

In November, the Judicial Council approved a request to defer approval of any pending or future consolidation issues, including the Fresno County study but excluding the Kings County study, until March 1989.

In December, the committee concluded a study of the problems associated with use of the peremptory challenge in the rural courts, particularly those that are isolated by distance and topography.

A suggestion to amend Code of Civil Procedure section 170.6 by providing for withdrawal of a challenge was tabled in light of *Stebbins* v. *White*, 190 Cal.App.3d 769, 235 Cal.Rptr. 656 (1987).

Other issues the committee is considering include: indigent defense services, juvenile justice resource alternatives, the impact of new or expanded prison facilities on rural courts, minimum standards for courtroom facilities, county courts consolidation, regional calendar coordination, expansion of the judicial assignments pool and the relation of retired judges to that pool, legislation to amend statutes providing for state reimbursement to counties, mandatory court administrators, and staffing options available to the justice courts.

Advisory Committee on Change of Venue

This 12-member advisory committee is charged with reviewing recurring problems related to the Judicial Council's responsibility[2] to facilitate changes of venue in criminal cases when there is a reasonable likelihood that a fair and impartial trial cannot be had in the county of origin.

Principal areas examined by the committee have been the distribution of the workload resulting from changes of venue, the availability of back-up assistance and reimbursement of costs incurred by the county receiving the case.

In addition, the committee considered whether the court of origin should attempt to impanel a jury before ordering a change of venue.

Regarding jury impanelling, the committee's view is that a fair and impartial jury often may be obtained in small counties where pretrial publicity is more likely to reach potential jurors.

As a result, the committee proposed a new section 4 of the Standards of Judicial Administration, providing that a court should consider attempting to impanel a jury that will give the defendant a fair and impartial trial before ordering a change of venue.

Workload distribution is another important issue. Under rule 842, the AOC generally identifies three courts that would not be "unduly burdened" by the trial of the case and are willing to receive it.

The result is that courts with good calendars tend to receive a disproportionate number of venued cases.

The problem has become more acute in the past year, as it is increasingly difficult to find courts that will agree to receive these lengthy cases. To achieve a better distribution of cases in which a change of venue has been ordered, the AOC recently has been following a modified policy concerning potential receiving courts.

The AOC will continue to identify courts willing to receive the cases. If an appropriate number cannot be enlisted, it will consider courts that do not appear unduly burdened according to caseload (death penalty cases, other criminal and civil), vacancies, available courtrooms and other pertinent factors, including when the court last received a change of venue case or agreed to do so.

If, after all pertinent factors are discussed with the court, it appears equitable for the court to receive the case, the AOC will include that court as a potential transferee. This policy was endorsed by the committee.

Receiving courts may ask the Judicial Council to provide back-up assistance by an assigned judge, but accommodating such requests is often not possible.

In light of the shortage of judges available for assignment, the committee has proposed new section 4.1 of the Standards of Judicial Administration. If adopted by the Judicial Council, the standard would provide that, absent agreement by the courts involved, a change of venue case should be tried by a judge from the originating court.

2 See Penal Code sections 1033 through 1038 and Cal. Rules of Court, rules 840 through 844.

While Penal Code section 1037 generally outlines responsibilities for costs resulting from a change of venue, the lack of specificity about what is "reasonable and necessary" for the receiving county to incur at the expense of the county of origin has led to disputes, and sometimes litigation, between counties for sizeable amounts of money.

The committee has developed two major responses to this problem.

First, proposed new section 4.2 of the Standards of Judicial Administration sets forth detailed guidelines for reimbursement of costs in change of venue cases.

Items covered include costs relating to jurors, court reporters, interpreters and translators, services and supplies, defendant-related expenses (health, food, clothing and transportation), counsel expenses and security-related expenses.

In addition, the guidelines provide for documentation of costs and the timing for reimbursement.

As a further aid to the courts, the committee has developed a form, a change of venue information sheet, designed to prevent disputes at the outset of the transfer of the case.

The court of origin is instructed to enter information about the case, including any unusual security problems or anticipated extraordinary costs.

There also is space for the names and telephone numbers of persons in the county of origin who have knowledge of the defendant's needs or billing for costs or payment of appointed counsel fees.

The receiving county is instructed to promptly advise the originating county and the Administrative Office of the Courts of any anticipated extraordinary expenses not addressed by the form.

Proposed new section 4.2 of the Standards of Judicial Administration and the proposed change of venue information form were sent to all county auditor-controllers to make the proposals conform to the standards used by officers in determining responsibility or payment procedures for costs related to change of venue.

The committee plans to invite members of the judiciary and bar and other interested parties to comment on its proposals in 1989.

After reviewing comments and making appropriate changes, the committee will report to the Judicial Council so that committee recommendations may be considered at the May 1989 council meeting.

Advisory Committee on Change of Venue

Hon. Henry Ramsey, Jr., Chair
Judge, Superior Court,
Alameda County

Hon. Cecily Bond
Presiding Judge,
Superior Court,
Sacramento County

Hon. Gary T. Friedman
Judge, Superior Court,
Kern County

Hon. Daniel M. Hanlon
Judge, Superior Court,
San Francisco County

Hon. Thomas T. Johnson
Judge, Superior Court,
Los Angeles County

Hon. Reginald Littrell
Judge, Superior Court,
Sierra County

Hon. James A. Malkus
Judge, Superior Court,
San Diego County

Hon. Guy Martin Young
Judge, Superior Court,
Modoc County

Mr. Alan M. Carlson
Executive Officer
Monterey County Superior
Court, Salinas

Ms. Deborah Kanter
Court Administrator
San Joaquin County Superior
Court, Stockton

Mr. Frederick A. Schroeder
District Attorney
Yuba County

Mr. Ronald Abernathy
Deputy Public Defender
San Joaquin County

Advisory Committee on the Eight-Member Civil Jury Experiment

On November 4, 1980, California voters amended article I, section 16, of the California Constitution to permit the Legislature to provide for juries of eight persons or a lesser number agreed on by the parties in open court in civil cases in municipal and justice courts.

To determine whether eight-member juries would render verdicts similar to 12-member juries in similar cases, the Legislature added section 194.5 to the Code of Civil Procedure.

This section provided for an experimental three-year project in Los Angeles County to determine the effect, if any, of smaller juries on the representation of women and minority groups on jury panels and on the administration of justice.

Due to lack of funding, that experiment was inconclusive, but the report to the Legislature recommended it be resumed with adequate funding and a suitable control group.

1986 legislation established another pilot project to compare the performance of eight- and 12-person juries in Los Angeles County Municipal and Justice courts from July 1, 1987, to July 1, 1989.

The comparison is to include measurement of cross-sectional representation of the community; numbers of verdicts favoring plaintiffs or defendants, and size of awards; accuracy, consistency, and reliability of awards; time required for impanelment, trial, and deliberations; and public and private costs of the jury.

The National Center for State Courts was selected to provide technical assistance and consultative services to the Judicial Council in conducting the pilot project.

The Center recommended that the experiment be conducted in the four Los Angeles County municipal court districts that had held 72 percent of the total municipal civil jury trials in Los Angeles County during the three years prior to 1987.

These courts—Long Beach, Los Angeles, Pasadena, and Pomona—also represent diverse geographical and population samples of the county.

The second year of data collection for the project began July 1, 1988, and will end July 1, 1989. An extremely high level of cooperation from court and jury division personnel, the bar, and jurors has continued throughout the data collection period.

The final report on the project will be made to the Legislature on January 1, 1990.

Advisory Committee on the Eight-Member Civil Jury Experiment

Hon. Richard A. Paez, Chair
Judge, Municipal Court,
Los Angeles Municipal Court District

Hon. Phillip J. Argento
Judge, Municipal Court,
Pasadena Municipal Court District

Hon. Gibson W. Lee
Judge, Municipal Court,
Long Beach Municipal Court District

Hon. Elvira R. Mitchell
Judge, Municipal Court,
Pasadena Municipal Court District

Hon. Thomas A. Peterson
Judge, Municipal Court,
Pomona Municipal Court District

Mr. Earl S. Bradley
Court Administrator/Clerk
Pasadena Municipal Court District

Ms. Barbara Cristino
Assistant Court Administrator
Long Beach Municipal Court District

Mr. Anthony C. Filosa
Deputy Court Administrator
Los Angeles Municipal Court District

Mr. James E. Gardner
Clerk/Administrative Officer
Pomona Municipal Court District

Ms. Diane Gray
Supervisor, Civil Division
Pomona Municipal Court District

Mr. Edward M. Kritzman
Court Administrator
Los Angeles Municipal Court District

Mr. Allan B. Lott
Chief, Civil Division
Los Angeles Municipal Court District

Mr. Darold Shirwo
Attorney at Law
Beverly Hills

Advisory Committee on Family Court Services

The Judicial Council is mandated by Civil Code sections 5180-5183 to coordinate all child custody mediation and family conciliation services in family courts throughout the state and to provide services in five areas, one of which is a research grant program that provides for an advisory committee.

The advisory committee's major functions are to:

- recommend criteria for determining grant recipient for research and demonstration projects;
- review grant requests;
- make recommendations on selected grant proposals to the Judicial Council; and
- report on the results of the research grants awarded by the Council.

The committee can also act in an advisory capacity to the program in general.

During 1988, the committee's activities included:

- developing Criteria governing the receipt and review of grants for adoption by the Judicial Council;
- reviewing concept papers and proposals for the initial round of grant proposals;
- issuing a special request for proposals;
- developing a policies and procedures manual; and
- designating topics for research in the upcoming year.

Advisory Committee on Family Court Services

Hon. Richard M. Silver, Chair
Judge, Superior Court,
Monterey County

Hon. Isabella H. Grant
Judge, Superior Court,
City and County of San Francisco

Hon. Thomas Ray Murphy
Judge, Superior Court,
San Diego County

Mr. Clarence (Buzz) Walters
Attorney at Law
Sacramento

Mr. Van O. Kinney
Attorney at Law
Redding

Mr. Alan M. Carlson
Executive Officer/Jury
Commissioner
Monterey County Superior Court

Mr. Hugh McIsaac
Director
Family Court Services
Los Angeles County Superior
Court

Dr. Mary Duryee
Director
Family Court Services
Alameda County Superior Court

Mr. Murray Bloom
Director
Family Counseling Services
San Diego County Superior Court

Ms. Heidi Uptegrove
Director
Family Court Services
Tehama County Superior Court

Advisory Committee on Family Law

The Judicial Council has played a significant role in family law development since 1970, adopting as rules of court the many forms used in family law proceedings.

The council plans to continue this role in keeping with the provisions of Civil Code section 4001 that practice and procedure under the Family Law Act shall be provided by the Judicial Council, "notwithstanding any other provision of law."

The work of this 18-member advisory committee, which has a broad mandate to make recommendations about family law, began with the identification and systematic review of family law issues and problem areas in need of study.

The following issues, arranged by subcommittee and priority, are under active study:

Rules, costs, and organization subcommittee

- ☐ Decreasing the attorney time per case
- ☐ Increasing the use of summary proceedings
- ☐ Establishing immunity for court-appointed and volunteer attorneys
- ☐ Merits of a family court
- ☐ Innovative calendaring and pretrial procedures
- ☐ Enhancement of family law assignments for judges
- ☐ Training of family law judges
- ☐ Study of local family law rules and development of superseding statewide rules
- ☐ Family law discovery, including interrogatories
- ☐ New family law summons with mutual restraining orders and orders to continue insurance coverage
- ☐ Meet and confer rule

Advisory Committee on Family Law

Hon. William P. Hogoboom, Chair
Retired Judge, Superior Court,
Los Angeles County

Hon. Rodney Davis
Judge, Superior Court,
Sacramento County

Hon. Melinda A. Johnson
Judge, Superior Court,
Ventura County

Hon. Anthony C. Joseph
Judge, Superior Court,
San Diego County

Hon. Billy G. Mills
Judge, Superior Court,
Los Angeles County

Hon. Rex H. Sater
Judge, Superior Court,
Sonoma County

Hon. Beverly Bloch Savitt
Judge, Superior Court,
Marin County

Commissioner Robert Schnider
Sherman Oaks

Hon. James W. Stewart
Judge, Superior Court,
Santa Clara County

Hon. John C. Woolley
Judge, Superior Court,
Orange County

Ms. Margaret Anderson
Attorney at Law
Santa Rosa

Mr. Irwin Buter
Attorney at Law
Los Angeles

Mr. Christopher F. Emley
Attorney at Law
San Francisco

Ms. Suzanne Harris
Attorney at Law
Los Angeles

Mr. Hugh McIsaac, Director
Family Court Services
Los Angeles County

Mr. George O. Nielsen
District Attorney's Office
San Francisco

Mr. Lee Palmer
Assistant County Clerk
Fresno County

Ms. Diana Richmond
Attorney at Law
San Francisco

Custody and domestic violence subcommittee

- ☐ Basis for determination of best interests of the child
- ☐ Establishment of evaluator qualifications
- ☐ Standards for the conduct of evaluations and the use of evaluation reports
- ☐ Rights of unmarried fathers; adoption certainty
- ☐ Changes in custody and visitation terminology
- ☐ Basis for joint custody orders
- ☐ Videotape training of family law judges
- ☐ Domestic violence issues for courts
- ☐ Payment of attorneys for children in family law cases

Substantive issues subcommittee

- ☐ Theory and valuation of goodwill

Support subcommittee

- ☐ Simplified admissibility of computerized support calculations
- ☐ Post-minority support issues
- ☐ Spousal support guidelines
- ☐ Treatment of new mate income
- ☐ Wage assignments in low income cases
- ☐ Relationship between Agnos formula and discretionary child support schedules

The committee is also preparing a report on domestic violence issues for the Judicial Council.

Advisory Committee on Gender Bias in the Courts

This advisory committee, appointed by two successive Chief Justices, was created following a recommendation of the Judicial Council in December 1986 after it reviewed a preliminary report from a precursor internal committee.

The committee is responsible for examining gender bias in the California courts, gathering information, and making recommendations to the Judicial Council. The committee reports to the Judicial Council on a regular basis and is tentatively scheduled to issue a final report in November 1989.

The working definition of gender bias includes behavior or decision-making of participants in the justice system that is based on or reveals stereotypical attitudes about the nature and roles of women and men, cultural perceptions of their relative worth, and myths and misconceptions about the social and economic realities encountered by both sexes.

The advisory committee is conducting a comprehensive review of gender bias issues, including such topics as: courtroom interaction; judicial branch employment practices and other issues of court administration; gender bias within the judiciary; selection of court-appointed counsel; jury instructions; domestic violence; custody; child support; economic consequences of dissolution; family law education and assignment procedures; and juvenile and criminal law.

This committee is authorized to consult with other professionals in the justice system, conduct public hearings, regional meetings, and surveys, collect statistical information, and perform any other tasks consistent with the Judicial Council's authority and the committee's charge.

Data collection

Subject to continuous reevaluation and review, the committee employs the following methods of collecting data on gender bias in California courts:

- Confidential regional bar meetings for California attorneys;
- Information gathering meetings with court clerks and domestic violence advocates;
- Judicial survey;
- Reports on specific issues by lawyer organizations;
- Discussions with groups of attorneys, judges, and other experts on specific issues;
- Site visits (jail and prison facilities; diversion and alternative sentencing programs);
- Telephone surveys;
- Literature searches; and
- Public hearings.

During 1988, the committee conducted six confidential regional bar meetings between January and March in Butte, Sacramento, San Francisco, Orange County, Fresno, and Los Angeles to obtain the testimony of lawyers on gender bias issues.

The committee also published a two-page request for comments to a series of questions in the July issue of *California Lawyer*.

The Administrative Office of the Courts sponsored two resource groups on gender bias at a training conference for middle management court employees in July and again at the annual convention of the Association of Municipal Court Clerks in October. Questionnaires on gender bias were distributed at both conferences.

In addition, a series of four focus group discussions were conducted at the State Bar annual meeting in September. Separate discussion groups were convened for judges, civil litigators, family lawyers, and judges and attorneys interested in minority concerns.

During the year, the Conference of Affiliates of California Women Lawyers submitted reports in response to the committee's request for county-by-county information on the following issues: diversion programs in domestic violence criminal matters; procedures for selecting appointed counsel; diversion and alternative sentencing programs and facilities for adult criminal defendants; diversion, alternative disposition and confinement placements, programs and facilities for juveniles; and attorney fees in family law cases.

Member organizations affiliated with California Women Lawyers offered to collect this information for the committee. The accuracy of the information will be verified and other interested attorneys and groups will be asked to comment on the information gathered.

Also during 1988, three meetings were conducted, and a fourth is scheduled in 1989, to gather information from advocates who assist victims of domestic violence to obtain temporary restraining orders or other relief.

Advisory Committee on Gender Bias in the Courts

Hon. David M. Rothman,
Co-chair
Judge, Superior Court,
Los Angeles County

Hon. Diane Watson, Co-chair
Member of the Senate,
Twenty-eighth Senatorial District

Hon. Judith C. Chirlin, Vice-chair
Judge, Superior Court,
Los Angeles County

Hon. Lisa Hill Fenning
Court Administration
Subcommittee Chair
Judge, United States
Bankruptcy Court,
Los Angeles

Hon. Elwood Lui
Former Committee Co-Chair
Retired Associate Justice,
Court of Appeal,
Second Appellate District,
Division Three

Hon. Sheila Prell Sonenshine
Associate Justice,
Court of Appeal,
Fourth Appellate District,
Division Three

Hon. Norman L. Epstein
Judge, Superior Court,
Los Angeles County

Hon. Judith McConnell
Judge, Superior Court,
San Diego County

Hon. Linda Hodge McLaughlin
Judge, Superior Court,
Orange County

Hon. Sheila F. Pokras
Judge, Superior Court,
Los Angeles County

Hon. Sara K. Radin
Judge, Superior Court,
Los Angeles County

Hon. Fern M. Smith
Judge, United States District Court,
Northern District of California

Hon. Meredith C. Taylor
Family Law Subcommittee Chair
Judge, Superior Court,
Los Angeles County

Hon. Jack Tenner
Judge, Superior Court,
Los Angeles County

Hon. Kathryn Doi Todd
Juvenile and Criminal Law
Subcommittee Chair
Judge, Superior Court,
Los Angeles County

Hon. Judith Donna Ford
Judge, Municipal Court,
Oakland-Piedmont-Emeryville
Municipal Court District

Hon. Alice A. Lytle
Judge, Municipal Court,
Sacramento Municipal
Court District

Hon. Frances Munoz
Judge, Municipal Court,
Orange County Harbor Municipal
Court District

Hon. Brian L. Rix
Judge, Municipal Court,
North (Butte) County Municipal
Court District,
Paradise Branch

Hon. Elihu M. Harris
Member of the Assembly,
Thirteenth Assembly District

Ms. Linda Broder
Past president, California League
of Women Voters, Los Angeles

Mr. James J. Brosnahan
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San Francisco

Mr. Kenneth Mark Burr
Deputy District Attorney
Alameda County

Ms. Juana C. Conrad
Court Administrator,
East Los Angeles Municipal
Court District

Ms. Tamara C. Dahn
Attorney at Law
Auburn

Mr. Rene Davidson
Alameda County Clerk

Ms. Marian McClure Johnston
Deputy Attorney General
Sacramento

Prof. Sheila James Kuehl
Domestic Violence
Subcommittee Chair
Associate Professor of Law
Loyola Law School

Ms. Andrea Sheridan Ordin
Chief Assistant Attorney General
Los Angeles

Mr. Herbert M. Rosenthal
Civil Litigation and Courtroom
Demeanor Subcommittee Chair
Executive Director
State Bar of California

Ms. Marjorie Swartz
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Ms. Patricia Ann Shiu
Attorney at Law
San Francisco

Mr. Frank Zolin
County Clerk/Executive Officer
Los Angeles Superior Court

Dr. Norma J. Winkler, Advisor
Associate Professor of Sociology
University of California-Santa Cruz

Advisory Committee on Juvenile Court Law

The charge of this committee is to study juvenile and other court proceedings involving minors and to make recommendations to the Judicial Council for improving the juvenile justice system in California.

The committee, which is gathering information on existing programs and practices, plans to:

- evaluate the need for improved organizational structure and greater uniformity and coordination of procedures between counties and within local court systems;
- study methods to place greater emphasis on individualizing system responses to children and their families;
- conduct an in-depth survey of calendaring practices and use of commissioners and referees to assess their impact in juvenile court proceedings;
- develop a statistical model to more accurately measure the workload of juvenile court personnel;
- review, revise, and simplify the Juvenile Court Rules;
- develop guidelines and appropriate forms to encourage greater statewide uniformity; and
- implement necessary training programs and innovative procedures.

Advisory Committee on Juvenile Court Law

Hon. Patrick J. Morris, Co-Chair
Judge, Superior Court,
San Bernardino County

Ms. Pamela A. Mohr, Co-Chair
Attorney at Law
Los Angeles

Hon. Paul Boland
Judge, Superior Court,
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Hon. Patricia Bresee
Commissioner, Superior Court,
San Mateo County

Hon. Dennis Bunting
Judge, Superior Court,
Solano County

Hon. James Garbolino
Judge, Superior Court,
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Judge, Superior Court,
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Judge, Superior Court,
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Hon. Wilmont Sweeney
Judge, Superior Court,
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of Social Services
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Ms. Rita Cregg
Program Specialist
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Mr. Mitchell J. Harris
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Mr. Harold La Flamme
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Ms. Shelley McEwan
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Ms. Alice C. Shotton
Attorney at Law
San Francisco

Mr. Joseph Spaeth
Office of the Public Defender
City and County of San Francisco

Mr. John Stettler
Chief, Probation Department
San Luis Obispo

Advisory Committee on Local Rules

A top priority of the Judicial Council's Superior Court Committee is to study all local rules with the goal of eliminating unnecessary variations in local practices and procedure.

The Advisory Committee on Local Rules was appointed at year end to assist in this process and will begin work in 1989. The committee's mandate is to:

- determine appropriate procedures for a study of local rules and adoption of statewide rules, and establish priorities and timetables for the studies;
- contact organizations and individuals able to assist staff in carrying out the studies;
- create subcommittees, which may include people who are not on the full committee, to draft rules in particular areas when the study and summary of the rules are completed;
- study conflicts in local rules that do not come within any of the subject areas developed above;
- develop policies for the guidance of local courts on appropriate areas for local rules – this might take the form of a recommended standard of judicial administration;
- investigate methods for the council to oversee the adoption of local rules;
- prepare educational materials for judges, court executives and clerks concerning local rules;
- consider methods to increase the public availability of local rules; and
- investigate other methods by which the council could alleviate problems caused by local rules.

The term "local rules" is used in a broad sense to include not only local court rules, policies, guidelines, procedures and manuals, but other local practices that affect attorneys in a manner similar to local rules (e.g., operating hours of the clerk's office and the place for filing papers).

Advisory Committee on Local Rules

Hon. Richard H. Breiner, Chair
Judge, Superior Court,
Marin County

Hon Patricia Bamattre-Manoukian
Judge, Superior Court,
Santa Clara County

Hon. Robert K. Byers
Judge, Superior Court,
Alameda County

Hon. James P. Darrah
Judge, Superior Court,
San Joaquin County

Hon. Richard McMechan
Judge, Superior Court,
Mariposa County

Hon. Robert H. O'Brien
Judge, Superior Court,
Los Angeles County

Hon. Duke D. Rouse
Presiding Judge, Superior Court,
San Bernardino County

Hon. Gary L. Taylor
Judge, Superior Court,
Orange County

Hon. Roger K. Warren
Judge, Superior Court,
Sacramento County

Hon. H. Ronald Domnitz
Presiding Judge, Municipal Court,
San Diego Municipal Court
District

Hon. C. Randall Schneider
Judge, Municipal Court,
Santa Clara County Municipal
Court District

Mr. Patrick Richard Beasely
Attorney at Law
Redding

Ms. Kathryn J. Burke
Attorney at Law
Redwood City

Mr. Anthony Ching
Attorney at Law
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Mr. Robert Harold Fairbank
Attorney at Law
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Ms. Carol L. Healey
Attorney at Law
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Ms. Deborah Kanter
Court Administrator
San Joaquin Superior Court

Ms. Susan Y. Illston
Attorney at Law
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Mr. William R. Jackson
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Santa Ana

Mr. Thomas D. Reese
Attorney at Law
Palo Alto

Ms. Sandra J. Shapiro
Attorney at Law
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Mr. Arthur Sims
Executive Officer and Jury
Commissioner
Riverside Superior Court

Mr. Michael Jens F. Smith
Attorney at Law
Fresno

Mr. William T. Needham
Attorney at Law
Eureka

Advisory Committee on Riverside and San Bernardino County Experimental Sanction and Settlement Procedure

1987 legislation establishes two related experimental three-year procedures in Riverside and San Bernardino Counties.

One procedure is added by new section 447 of the Code of Civil Procedure, which adopts the provisions of rule 11 of the Federal Rules of Civil Procedure to provide sanctions for filing frivolous papers.

The other is added by section 1021.1 of the same code to provide for an award of certain attorney fees if a party makes an offer for judgment under Code of Civil Procedure section 998 and the other party fails to obtain a more favorable judgment at trial.

This committee was appointed to assist the council with its duties under the new legislation.

The committee has determined that the enabling legislation should be amended to apply the procedure to personal injury actions and is presently considering public comments on that proposal.

It is also reviewing data collection documents and developing methods to involve the local bar associations in the procedure in a more formal manner.

A final report of the committee will be issued at the end of the experimental procedure discussing the effectiveness of these procedures in reducing trial court congestion.

Advisory Committee on Riverside and San Bernardino County Experimental Sanction and Settlement Procedure

Hon. Thomas E. Hollenhorst,
Co-chair
Associate Justice, Court of Appeal,
Fourth Appellate District,
Division Two,
San Bernardino

Hon. Duke D. Rouse, Co-chair
Judge, Superior Court,
San Bernardino County

Hon. William P. Hyde
Judge, Superior Court,
San Bernardino County

Hon. Ben T. Kayashima
Judge, Superior Court,
San Bernardino County

Hon. Victor Miceli
Judge, Superior Court,
Riverside County

Hon. Michael F. Flynn
Judge, Municipal Court,
Corona Municipal Court District

Hon. Frederick A. Mandabach
Judge, Municipal Court,
San Bernardino County
Municipal Court District

Hon. Robert J. McIntyre
Judge, Municipal Court,
Desert Municipal Court District

Hon. John B. Morgan
Judge, Municipal Court,
Three Lakes Municipal Court
District

Hon. Richard G. Van Frank
Judge, Municipal Court,
Mt. San Jacinto Municipal Court
District

Mr. Lemoyne S. Badger
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Riverside

Mr. Caywood J. Borror
Attorney at Law
San Bernardino

Mr. Terry Dean Bridges
Attorney at Law
Riverside

Mr. Florentino Garza
Attorney at Law
San Bernardino

Mr. Robert M. Holstein, Jr.
Attorney at Law
Riverside

Mr. Stephan Gray Saleson
Attorney at Law
San Bernardino

Mr. Ronald G. Skipper
Attorney at Law
San Bernardino

Mr. James D. Ward
Attorney at Law
Riverside

Advisory Committee on Sentencing

The Determinate Sentencing Act of 1976 gave the Judicial Council the following responsibilities:

- Develop rules to guide judges in felony sentencing
- Collect and distribute statistics on sentencing
- Conduct sentencing institutes for trial judges
- Report to the Governor and Legislature on bills that would affect felony sentencing
- Monitor generally the operation of the sentencing laws

When the law was first passed, a Judicial Council advisory committee drafted proposed sentencing rules and assisted the council in establishing a statistical reporting system and in complying with its other new statutory duties.

Since then, the substantive statutes governing sentencing and numerous cases interpreting both the statute and the rules have been significantly amended, leading to the appointment of a new advisory committee.

This committee will examine the need for changes or additions to the sentencing rules to accommodate statutory changes and developments in case law; recommend changes, if appropriate, for simplifying and improving the structure of the sentencing law; and review other aspects of the sentencing process.

Recognizing that the law is excessively complex, time-consuming, and prone to error, in 1988 the committee considered an overview of the sentencing law. It divided into subcommittees to consider portions of the rules for possible simplication and received reports of the committee chair and staff who attended a legislative interim meeting on a possible major revision of the sentencing law.

Advisory Committee on Sentencing

Hon. Herbert B. Hoffman, Chair
Judge, Superior Court,
San Diego County

Hon. Rose Hom
Judge, Superior Court,
Los Angeles County

Hon. Jean Matusinka
Judge, Superior Court,
Los Angeles County

Hon. John J. Ryan
Judge, Superior Court,
Orange County

Hon. Peter Allen Smith
Judge, Superior Court,
Marin County

Ms. Linda Erwood
Santa Cruz County Probation

Mr. Jay B. Gaskill
Assistant Public Defender
Alameda County

Mr. Richard B. Lennon
Deputy State Public Defender
Los Angeles

Ms. Carolyn Lewinski
San Diego Probation Department

Mr. David H. Rose
Deputy Attorney General
San Francisco

Ms. Patricia K. Sepulveda
Deputy District Attorney
Contra Costa County

Ms. Holly D. Wilkens
Office of the Attorney General
San Diego County

Advisory Committee on Telephone Appearance Procedures

Government Code section 68070.1 was enacted in 1987 to require the Judicial Council to establish a pilot project for teleconferencing in nonevidentiary law and motion and probate hearings and conferences in at least 10 superior courts.

The council is also required to adopt model procedures to guide superior courts in the development of teleconferencing procedures required in all superior courts effective January 1, 1989. This committee was appointed to assist the council in meeting these responsibilities.

The committee issued a final report in late 1988. The council has circulated the report for comment and will consider the recommendations during 1989. The report recommends:

- specifying equipment to be used by the courts for telephone appearances;
- enlarging the types of matters that can be heard by telephone;
- stating steps that encourage the use of appearance by telephone;
- modifying the means by which the costs of the telephone appearance procedure may be collected; and
- stating other procedural requirements for the use of the procedure.

These recommended changes require statutory amendment as well as rule changes. Subject to reconsideration when the comments are considered, the council adopted recommendations to:

- make the rules applicable to all counties;
- permit appearance in all cases whenever specified by statute;
- provide a method for a party to indicate an intention to appear by telephone;
- establish criteria for telephone appearance equipment;
- propose local telephone appearance procedures; and
- encourage courts to specify the types of matters deemed particularly suitable for hearing by telephone appearance.

Advisory Committee on Telephone Appearance Procedures

Hon. Norman L. Epstein, Chair
Judge, Superior Court,
Los Angeles County

Hon. Stephen R. Henry
Judge, Superior Court,
Fresno County

Hon. Stuart R. Pollak
Judge, Superior Court,
City and County of San Francisco

Hon. Stanley C. Young, Jr.
Judge, Superior Court,
Plumas County

Mr. Robert Charles Friese
Attorney at Law
San Francisco

Mr. Hugh Johnson
Attorney at Law
Los Angeles

Mr. Martin J. Moshier
County Clerk/Executive Officer
San Bernardino County

Advisory Committee on the Trial Court Improvement Fund

After establishment of the historic State Trial Court Funding Act, the Chief Justice in 1987 appointed a 14-member advisory committee to review and recommend concept papers and grant proposals for the Trial Court Improvement Fund.

Designed to improve court management and efficiency, case processing and speedy trials, the fund was to be appropriated each fiscal year and disbursed to option counties through grants administered by the Judicial Council.

The committee met three times during 1988 to develop guidelines for the two-phased application process and to recommend funding for proposals selected from more than 200 concept papers submitted during the first grant period.

In September 1988, the Legislature appropriated $1 million for the Trial Court Improvement Fund for the period January-June 1989.

The Judicial Council in November 1988 approved application guidelines for the submission of concept papers and formal grant proposals and conditionally approved a grant application requesting support for the STATSCAN/SUSTAIN automation project.

This project will offer a number of California trial courts a tool to implement their legislative mandate to experiment with programs that reduce case-processing delay.

At year-end 1988, the committee solicited concept papers for the second funding cycle and by November received 111 new concept papers.

However, the committee discontinued work on these proposals in December when the Chief Justice acceded to the Governor's request that the judiciary not solicit additional trial court improvement funds for 1989-90 due to a state fiscal crisis.

Advisory Committee on the Trial Court Improvement Fund

Hon. Hollis G. Best, Chair
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Court of Appeal,
Fifth Appellate District,
Fresno

Hon. Barbara Tuttle Gamer
Judge, Superior Court,
San Diego County

Hon. Joanne C. Parrilli
Judge, Superior Court,
Alameda County

Hon. Richard A. Paez
Judge, Municipal Court,
Los Angeles Municipal Court
District

Hon. Michael S. Ullman
Judge, Municipal Court,
Sacramento Municipal
Court District

Hon. Gregory M. Caskey
Judge, Justice Court,
Central Valley Justice Court
District

Mr. Winslow Christian
Senior Vice President
Bank of America
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Ms. Sheila Gonzalez
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Ventura County Municipal Court
District

Mr. Leonard S. Janofsky
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Mr. Ronald L. Olson
Attorney at Law
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Mr. Alan Slater
Executive Officer
Orange County Superior Court

Ms. Grace K. Yamakawa
County Clerk-Executive Officer
Santa Clara County Superior Court

Hon. Richardo A. Torres
(Judicial Council liaison)
Judge, Superior Court,
Los Angeles County

Hon. Susan P. Finlay
(Judicial Council liaison)
Judge, Municipal Court,
South Bay Municipal Court District,
Chula Vista

Advisory Committee on Voir Dire

Code of Civil Procedure section 223.5(a) establishes a pilot project in the Fresno and Santa Cruz County Superior Courts from July 1, 1988, through June 30, 1991, in which all questions "designed solely for assisting in the intelligent exercise of the right of peremptory challenge and not applicable to the determination of implied or actual bias" will be propounded by the court.

In so doing, the court is to use the standardized questions developed by a Task Force on Voir Dire.

Under Code of Civil Procedure section 223.5(b), the Judicial Council appointed two of the eight members of the task force. The other appointing powers were the Governor, the Speaker of the Assembly, and the Senate Rules Committee.

When the task force completed the standardized questions and use instructions in May 1988, it became the mandatory responsibility of the Judicial Council, under Code of Civil Procedure section 223.5(c), on or before January 1, 1992, to report to the Legislature "on the effects of the pilot project on the efficiency in jury selection and on any effect on the conviction rate for particular crimes compared with a similar prior period in each pilot project county."

In July 1988, the Chief Justice appointed this advisory committee to monitor the pilot project and to assist the council in the preparation of the report to the Legislature.

To provide continuity with the work of the task force, particularly the standardized questions to be used throughout the pilot project, the Chief Justice appointed all eight members of the task force to the new committee.

In essence, Civil Procedure section 223.5(c) (formerly Penal Code section 1078(d)) requires the Judicial Council to report on two phenomena.

The first, "efficiency in jury selection," suggests the time required to select a jury during the pilot project as opposed to a comparable prior period.

Advisory Committee on Voir Dire

Hon. Ronald M. George, Chair
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Court of Appeal,
Second Appellate District,
Division Four,
Los Angeles

Hon. Harry L. Hupp
Judge, United States District Court,
Central District of California,
Los Angeles

Hon. Christopher C. Cottle
Associate Justice,
Court of Appeal,
Sixth Appellate District,
San Jose

Hon. Nickolas J. Dibiaso
Judge, Superior Court,
Fresno

Hon. Carol A. Corrigan
Judge, Municipal Court,
Oakland-Piedmont-Emeryville
Municipal Court District,
Oakland

Mr. Lawrence P. Biggam
Public Defender
Santa Cruz County

Mr. Arthur Danner III
District Attorney
Santa Cruz

Mr. Edward W. Hunt
District Attorney
Fresno County

Ms. Christine Patton
Court Administrator
Superior Court
Santa Cruz

Mr. Jose Villareal
Public Defender
Fresno County

Mr. Arne Werchick
Attorney at Law
Sausalito

Mr. Fred Yamamoto
Executive Officer/Jury Commissioner
Superior Court

The second, "any effect on the conviction rate for particular crimes," is self-explanatory.

To capture this information, the task force developed a form to be filled out by the staff of each court during the three-year pilot project and, by reviewing court files, for the 18-month period before the project began on July 1, 1988.

Although of different duration, the two periods should be of sufficient length for comparison.

The form lists the date juror selection began; the time for voir dire by the court, the prosecution, and the defense; total time for voir dire; and total trial time.

Also entered, by defendant, are the charges; the number of counts of each charge; and the disposition on each charge. A space also exists for recording a plea or dismissal.

The committee plans to meet twice a year or quarterly, as necessary, to review the information on the forms and to discuss the effectiveness of the standardized questions on voir dire and other aspects of the pilot project.

The committee also plans to survey judges, prosecutors and defense counsel in the pilot project counties on these issues.

After the pilot project ends on June 30, 1991, the committee will report its findings and recommendations to the Judicial Council, which, in turn, will report to the Legislature on or before January 1, 1992.

CHAPTER 7

STATE TRIAL COURT FUNDING ACT

After more than 20 years of advocacy by the Judicial Council, the Governor in 1988 signed two bills that implement and finance state funding of the trial courts.

Previous funding legislation, Senate Bill 709, was signed into law in 1987, but was not funded in the Governor's budget. With two 1988 bills, however, California joined more than 30 other states that accept primary responsibility for funding their trial courts.

The state funding measures are contained in Senate Bill 612, authored by Senator Robert Presley, and Assembly Bill 1197, authored by Assembly Speaker Willie Brown, Jr. They provide block grants and appropriations to each county based on total judicial positions. The initial funding period begins on January 1, 1989, and carries through to the end of fiscal year 1988-89. The Governor also has included funding for trial courts in his 1989-90 budget.

Senate Bill 612

SB 612 provides for 109 new judicial positions as contained in the previous state funding bill, SB 709.

SB 612 also provides for block grants to option counties in the amount of $53,000 quarterly beginning in January 1989 for each superior or municipal court judge authorized by Section 4 of Article VI of the California Constitution and those authorized by statute. Block grants are also provided for justice court judges in effect on January 1, 1988, as revised thereafter by statute.

The bill also provides the same block grant amount for court commissioners and referees authorized by statute, funded, filled, and reported to the Judicial Council on or before September 27, 1987, plus "any such positions specifically authorized by statute enacted after January 1, 1988, funded, filled, and reported to the Judicial Council."

In addition, SB 612 contains a provision for supplemental salary grants for all municipal court judges who hold office beginning in January 1989 and supplemental salary grants for all justice court judges who hold office beginning in July of 1989.

The grants are required to "be adjusted each fiscal year by a percentage equal to the average percentage increase for the previous fiscal year for California state employees."

All of the fines, fees, and forfeitures currently collected by the courts must remain with the counties and cities. Opting for state funding "shall constitute a waiver of all claims for reimbursement for state-mandated local programs not theretofore approved by the State Board of Control, the Commission on State Mandates, or the courts to the extent the Governor, in his discretion, determines that the waiver be appropriate ..."

In addition, all court mandates are waived by option counties.

Each court's budget for the first full fiscal year after opting for state funding constitutes the base budget for that court. This means that courts will be required to fund all future court budgets at the rate of the base year budget plus cost of living adjustments.

"Beginning with the 1989-90 fiscal year, an option county shall:

(a) appropriate and authorize for expenditure each fiscal year for court operations an amount not less than the amount appropriated for the first full fiscal year in which the county is an option county, as adjusted each fiscal year by the percentage determined pursuant to section 77201 for adjustment of the block grant;

(b) provide the trial courts with at least the same proportionate level of indirect services as was provided in the 1986-87 fiscal year;

(c) fulfill its shared financial and other obligations pursuant to section 68073 of the Government Code;

(d) provide for judicial arbitration and court mediation and conciliation services at a level of service at least proportionate to the number of cases filed subject to such programs in the 1986-87 fiscal year."

Resolutions to opt for state funding must be signed by the Chairperson of the Board of Supervisors, the presiding judge of the superior court, the presiding judge of the municipal court district in which the county seat is located stating that a majority of each party's members has agreed to opt for state funding.

If the county has justice court judges, the presiding judge of the municipal court must also state that a majority of the municipal court and justice court judges have agreed to opt for state funding.

If there is no municipal court in the county and the justice court has at least one half-time judge, the presiding judge of the justice court shall sign the option agreement.

Option agreements must be received by the state Controller no later than January 15, 1989 for the last half of the 1988-89 fiscal year; March 1, 1989 for the 1989-90 fiscal year; and November 15 of the preceding fiscal year for fiscal years thereafter.

Of the 58 counties, all but two—Santa Barbara and Madera—opted for state funding for the 1988-89 fiscal year.

All 58 counties opted for state funding for the 1989-90 fiscal year.

Assembly Bill 1197

AB 1197 carries the following appropriation and provisions: It

- allocates funding of $182,262,000 for block grants, plus $22,609,000 for municipal court judges' salaries;
- allocates $1 million to the Trial Court Improvement Fund for the last half of fiscal year 1988-89.
- provides for the funding of the "no or low" property tax cities;
- allows 30 defined option counties to make limited increases in bail amounts for deposit in county general funds without split to other agencies for a four-year period.

Trial Court Improvement Fund

Concept papers for grants were submitted during the spring of 1988 and reviewed in May by the Judicial Council Advisory Committee on the Trial Court Improvement Fund. (See Chapter 6 for more information about this committee.)

The committee reviewed 37 full applications for grants in October and made award recommendations to the Judicial Council in November.

The council conditionally approved the grant application requesting support for STATSCAN/SUSTAIN — the Multi-Court Automation Project to Reduce Court Delay (Los Angeles, Sacramento, Orange, San Diego and Kern Superior Courts).

This project would offer a number of California trial courts a tool to implement their legislative mandate to experiment with programs that reduce case-processing delay.

At year-end 1988, the committee solicited concept papers for the second funding cycle and by November received 111 new concept papers.

However, the committee discontinued work on these proposals in December when the Chief Justice acceded to the Governor's request that the judiciary not solicit additional trial court improvement funds for 1989-90 due to a state fiscal crisis.

CHAPTER 8

TRIAL COURT DELAY REDUCTION ACT

California's Trial Court Delay Reduction Act of 1986 is the first legislative effort to achieve comprehensive delay reduction in California courts. It requires the Judicial Council to adopt civil and felony case processing time standards for all superior courts by July 1, 1987. It further requires experimental civil delay reduction programs to be established locally in nine superior courts commencing January 1, 1988, and continuing for three years.

The following excerpt from the act offers the most compelling explanation for its passage:

> The people of the State of California expect and deserve prompt justice and the speedy resolution of disputes. Delay in the resolution of litigation may reflect a failure of justice and subjects the judiciary to a loss of confidence by the public in both its fairness and utility as a public institution. Delay reduces the chance that justice will in fact be done, and often imposes severe emotional and financial hardship on litigants.
> (Gov. Code, § 68601(b).)

Time Standards

The American Bar Association's (ABA) case disposition time standards for civil and criminal cases were adopted by the Judicial Council to become effective July 1, 1991. Those standards provide in part for resolution of:

- 90 percent of all general civil cases within one year of filing, 98 percent within 18 months, and 100 percent within two years;
- 90 percent of all felony cases within 120 days from date of arrest, 98 percent within 180 days, and 100 percent within one year.

Statewide interim case disposition time standards are now in effect and require:

Superior court
general civil cases

- By January 1, 1989, all cases should be disposed within four years of filing;
- By January 1, 1990, all cases should be disposed within three years of filing; and
- After January 1, 1991, all cases should be disposed within two years of filing.

Felony cases

- Except for capital cases, all felony cases disposed of should have a total elapsed processing time of no more than one year from first appearance in any court to disposition.

In addition, these standards also recommend that each superior court dispose of at least as many cases as are filed each year and, if necessary to meet the case processing standards, dispose of more cases than are filed.

The delay reduction standards are found in sections 2 and 2.1 of the Standards of Judicial Administration Recommended by the Judicial Council in the Appendix to the California Rules of Court.

Pilot Courts

The nine pilot courts in the delay reduction experiment are the superior courts of Alameda, Contra Costa, Kern, Los Angeles, Orange, Riverside, Sacramento, San Diego, and San Francisco Counties. Each has adopted delay reduction rules after consultation with local bar associations. Due to the experimental nature of the effort, some pilot courts have already adopted the ABA time standards as a goal, while others have adopted the Judicial Council interim case disposition time standards.

Volunteer Courts

The Trial Court Delay Reduction Act permits any superior court not designated as one of the nine pilot courts to establish a voluntary civil delay reduction program with certain limitations. Nine additional superior courts have volunteered into the experimental program.

Court	*Effective Date of Program*
Santa Barbara*	1-1-88
Fresno*	2-1-88
Yolo*	3-1-88
Ventura	5-1-88
Lake	7-1-88
Napa*	7-1-88
San Joaquin*	7-1-88
Humboldt*	1-1-89
Sonoma	1-1-89

* Designates a delay reduction program exempt from the uniform rule requirement of Assembly Bill No. 3830 (Stats. 1988, ch. 1200).

Legislative and Statewide Rule Update

Because courts and attorneys are fundamentally changing how litigation is managed in superior courts, adjustments have been necessary and will continue.

For example, the need for local flexibility emerged early in the process. The Judicial Council responded in November 1987 by approving a proposal to seek legislation to amend the Trial Court Delay Reduction Act that would expressly authorize local pilot court delay reduction program rules to shorten any time limits specified by statute, and to impose procedural requirements in addition to those authorized by statute, among other proposals.

The proposed amendments were enacted into law as an urgency measure (Stats. 1988, ch. 1200). Amendments also permit six of the nine volunteer counties to operate locally developed delay reduction programs. (Three of the counties were not known to have delay reduction programs under way at the time the exemptions were granted.) Other counties interested in establishing an exemplary civil delay reduction program under the act are required to participate in the trial court funding program and to employ uniform rules to be drafted by the Judicial Council.

The careful and continued scrutiny of other California statutes and rules of court is an ongoing function under the delay reduction effort. Additional revision may enhance the ability of both the Trial Court Delay Reduction Act to succeed and the Judicial Council and all interested parties to monitor success.

Monitoring Progress

The progress in each of the nine experimental courts is being monitored both quantitatively and qualitatively for two main purposes. First, each court checks its own status at least monthly for the purpose of adjusting its program, if necessary. Second, statistical review and reporting is required by the Trial Court Delay Reduction Act for the purpose of evaluating the experiment. Summary evaluation measures of success have been drafted and are now being circulated for comment among all interested parties. These measures will form the basis for a Judicial Council report to the Legislature in 1991.

This report will present the results of the experimental program and make recommendations on whether the program should be extended to all trial courts in the state.

Baseline Information

To assess improvements in case processing it is important to understand the pace of litigation in the pilot courts prior to implementation of their programs. Staff of the National Center for State Courts, the agency working as a consultant to the Judicial Council, have gathered baseline data for civil cases and criminal cases disposed in 1986 and 1987.

The following two Standards of Judicial Administration were adopted by the Judicial Council to implement delay reduction in the trial courts.

Sec. 2. Caseflow management and delay reduction—statement of general principles

Trial courts should be guided by the general principle that from the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events is unacceptable and should be eliminated. To enable the just and efficient resolution of cases the court, not the lawyers or litigants, should control the pace of litigation. A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket. *[Adopted effective July 1, 1987.]*

Sec. 2.1. Case disposition time standards

(a) [Trial Court Delay Reduction Act] The recommended time standards in this section are adopted pursuant to chapter 1335 of the Statutes of 1986 (Gov. Code, § 68603). *[As relettered effective Jan. 1, 1989; adopted effective July 1, 1987.]*

(b) [Statement of purpose] These recommended time standards are intended to guide the trial courts in applying the policies and principles of section 2 of the Standards of Judicial Administration. They are administrative, justice-oriented guidelines to be used in the management of the courts. They are not to be used as the basis for sanctions against any court or judge. *[As relettered effective Jan. 1, 1989; adopted effective July 1, 1987.]*

(c) [Superior court civil cases—processing time goals] Each superior court should process general civil cases to meet the following goals:

(1) By January 1, 1989, all cases should be disposed within four years of filing;

(2) By January 1, 1990, all cases should be disposed within three years of filing;

(3) After January 1, 1991, all cases should be disposed within two years of filing.

[As amended and relettered effective Jan. 1, 1989; adopted effective July 1, 1987; and previously amended effective July 1, 1988.]

(d) [Superior court civil cases—rate of disposition] Each superior court should dispose of at least as many cases as are filed each year and, if necessary to meet the case-processing standards in subdivision (c), dispose of more cases than are filed. As the court disposes of inactive cases, it should identify active cases that may require judicial attention. *[As amended and relettered effective Jan. 1, 1989; adopted effective July 1, 1987; and previously amended effective July 1, 1988.]*

(e) [Definition] As used in this section, "general civil case" means all civil cases except probate, guardianship, conservatorship, family law, juvenile proceedings, and "other civil petitions" as defined in the Regulations on Superior Court Reports to the Judicial Council. *[As relettered effective Jan. 1, 1989; adopted effective July 1, 1987; and previously amended effective Jan. 1, 1988.]*

(f) [Felony cases] Except for capital cases, all felony cases disposed of should have a total elapsed processing time of no more than one year from first appearance in any court to disposition. *[As amended and relettered effective Jan. 1, 1989; adopted effective July 1, 1987; and previously amended effective Jan. 1, 1988.]*

(g) [Exceptional cases] A civil case that involves exceptional circumstances or will require continuing review is exempt from the time standards in subdivision (c). An exceptional case is not exempt from the time standard in subdivision (f), but case progress should be separately reported under the Regulations on Superior Court Reports to the Judicial Council. *[As relettered effective Jan. 1, 1989; adopted effective July 1, 1987; and previously amended effective Jan. 1, 1988.]*

(h) [ABA standard 2.52] Effective July 1, 1991, the case disposition time standards set forth in standard 2.52 of the American Bar Association's Standards Relating to Court Delay Reduction are adopted for civil and criminal cases. *[As relettered effective Jan. 1, 1989; adopted effective July 1, 1987.]*

The baseline will assist each court to evaluate progress in the first and second years of the program (before the formal evaluation is completed in 1991). Since baseline data identify the starting point for each pilot court's experiment, this information may also provide insights should any of the project courts fail, by the end of 1990, to meet the council's time standards.

Early baseline data for cases disposed in 1986 and 1987 suggest that at the commencement of the experimental program all of the pilot courts substantially exceeded the ABA standards. Table 1 confirms that prior to the delay reduction experiment the longest cases were taking in excess of five years in most of the pilot courts.

Experience elsewhere has shown that civil and criminal case processing are interrelated and cannot be examined in isolation. For that reason, the National Center is also gathering baseline data for felony cases disposed in 1986 and 1987 in the nine courts. This data will enable assessment of progress in the civil experiment in light of changes that may occur in criminal case processing.

One other element of the baseline involves probing the attitude of the practicing lawyers regarding court control of the pace of litigation and the programs in the nine pilot counties, in 1988 and again in late 1990. This information also is being gathered.

Backlog Reduction

The Standards of Judicial Administration adopted by the Judicial Council in 1987 recommended that all superior courts purge from their inventory 25 percent more cases than were filed during the 18 months from July 1, 1987, to December 31, 1988. By disposing of cases that are no longer active, the court can identify active pending cases that may require judicial attention. Courts can then plan to integrate these older active cases into the new program. The pilot courts have taken different approaches to purging inactive cases from the inventory. Letters to attorneys, mass calendar calls, and published lists have all been used to bring inactive cases to the attention of the bar, resulting in the disposition of many of them.

Purge programs in progress have been successful. Table 2 measures backlog reductions to date by comparing the number of filings and dispositions, for selected courts, for fiscal years 1986-87 and 1987-88. The table shows recent increased purge activity and suggests that this process of purging cases is occurring in delay reduction program courts as well as non-program courts, large courts as well as small courts.

TABLE 1

How Many Years Was It Taking to Process General Civil Cases from Filing to Disposition?[a]

	1986 Percentiles[b]			*1987 Percentiles*		
Court	*50th*	*90th*	*98th*	*50th*	*90th*	*98th*
Alameda	1.3	3.3	5.3	1.4	3.9	5.5
Contra Costa	1.1	2.8	4.0	x	x	x
Kern	1.0	2.4	2.8	1.5	3.8	4.2
Los Angeles	1.9	4.7	5.6	3.1	4.5	6.0
Orange	0.9	3.0	5.1	1.1	3.3	5.0
Riverside	2.0	4.9	6.3	1.5	4.1	5.8
Sacramento	1.2	3.7	5.6	x	x	x
San Diego	x	x	x	x	x	x
San Francisco	1.6	3.8	5.0	1.5	4.1	5.2
ABA Case Processing Standards[c]	-	1.0	1.5	-	1.0	1.5

a Data is provided by the National Center for State Courts, Western Regional Office.
b Percentiles categorize the age of cases disposed in terms of percentages. For example, 50% of the cases disposed in Orange Superior Court in 1986 were less than one year old (.9 yr.) at the time of disposition; 98% of the cases disposed in Kern Superior Court in 1986 were 2.8 years old or less at the time of disposition and only 2% were older.
c The American Bar Association Standards of Timely Disposition have been adopted for California courts effective July 1, 1991.
x = Data not available.

Monthly Statistics

The Trial Court Delay Reduction Act requires that statistics be collected and published annually regarding the compliance of the superior courts with the standards of timely disposition adopted by the Judicial Council. This information is of particular interest to the courts presently implementing delay reduction programs.

Regular scrutiny of statistical information by the bench and bar can help identify problem areas for early correction. For example, statistical information gathered by the San Diego court indicated that more lawyers were choosing to go into arbitration. This prompted the court to review its arbitration program and more carefully monitor the status of cases in arbitration in order to assure that the interim case processing time frames were being honored.

During fiscal year 1987-88, the Administrative Office of the Courts (AOC) developed a Civil Case Status Report that summarizes delay reduction program case information in five categories: inventory summary, pending case status, disposition summary, case tracking summary, and trial status reports. The report is presently available to the five pilot courts utilizing the STATSCAN bar code technology to transmit case-by-case activity information to the AOC.

In conjunction with STATSCAN, these courts have implemented or plan to use a case monitoring program which includes functions such as individual case tracking to monitor compliance with established processing times, production of notices to attorneys and parties, calendar preparation, indexing, and other detailed statistical, workload, and case management functions.

Of the remaining four pilot courts, two are expected to be using the STATSCAN system for data transmission by early 1989. The remaining two pilot courts are continuing to use their present computer systems. Comparable statistical information concerning these courts will be gathered during 1989.

TABLE 2

Selected Dispositions-to-Filing Ratios[a] Fiscal Years 1986-87 and 1987-88

	FY 1986-87			*FY 1987-88*		
Court	*Dispos*	*Filings*	*D/F Ratios*	*Dispos*	*Filings*	*D/F Ratios*
Alameda[b]	6,091	11,637	0.52	6,658	9,272	0.72
Contra Costa[b]	3,557	5,834	0.61	**5,073**	**5,134**	**0.99**
Del Norte	160	235	0.68	**318**	**214**	**1.49**
Glenn	92	105	0.88	**103**	**67**	**1.54**
Humboldt[c]	309	729	0.42	**669**	**664**	**1.01**
Inyo	**208**	**176**	**1.18**	199	230	0.87
Kern[b]	1,651	2,587	0.64	**2,503**	**2,349**	**1.07**
Lake[c]	196	315	0.62	**410**	**295**	**1.39**
Los Angeles[b]	76,390	93,015	0.82	**101,324**	**86,936**	**1.17**
Marin	1,257	2,349	0.54	2,190	2,257	0.97
Monterey	1,105	2,045	0.54	**2,186**	**2,032**	**1.08**
Napa[c]	383	772	0.50	**1,143**	**971**	**1.18**
Orange[b]	15,959	28,594	0.56	**28,722**	**27,126**	**1.06**
Plumas	**108**	**108**	**1.00**	73	109	0.67
Riverside[b]	5,067	8,291	0.61	4,314	7,906	0.55
Sacramento[b]	5,788	8,274	0.70	**8,415**	**7,326**	**1.15**
San Bernardino	3,271	7,065	0.46	**9,626**	**8,101**	**1.19**
San Diego[b]	10,459	16,508	0.63	13,432	17,061	0.79
San Francisco[b]	7,061	11,009	0.64	**9,951**	**9,749**	**1.02**
Santa Cruz	990	1,621	0.61	**1,832**	**1,510**	**1.21**
Sonoma[c]	2,138	2,594	0.82	**3,176**	**3,119**	**1.02**
Stanislaus	1,898	2,608	0.73	**2,134**	**2,166**	**0.99**
Tulare	781	1,269	0.62	**1,342**	**1,310**	**1.02**
Selected Court Total	144,919	207,740	0.67	205,793	195,902	1.05
Statewide Total	172,936	258,933	0.59	239,104	243,601	0.79
Percent of Statewide Total	84%	80%		86%	80%	

a Boldface data for a particular court highlights effective disposition activity that, in many cases, is a result of a purge program.
b Trial Court Delay Reduction - Mandatory Pilot Courts.
c Trial Court Delay Reduction - Volunteer Courts.

Preliminary Program Results

During the first six months of this experimental program, 43,236 general civil cases were included in the delay reduction pilot programs. This represents approximately 17 percent of the total general civil filings statewide. Chart 1 illustrates pilot program filings by court.

Approximately 100 of the state's 725 superior court judges are involved in this pilot effort. It is too early to report whether case disposition time standards have been met in eight of the nine pilot courts — no cases filed in January of 1988 had reached a trial stage by June.

The San Diego Superior Court, however, has been at the forefront of pioneering delay reduction in California courts. Its program began in January 1987, a full year before the operative date of the pilot programs under the act. In the first 18 months of their effort, January 1987 through June 1988, that court reported:

	Percent Disposed	
	ABA Standard	*San Diego*
For general civil cases filed in January 1987:	98%	77%
For general civil cases filed in June 1987:	90%	52%

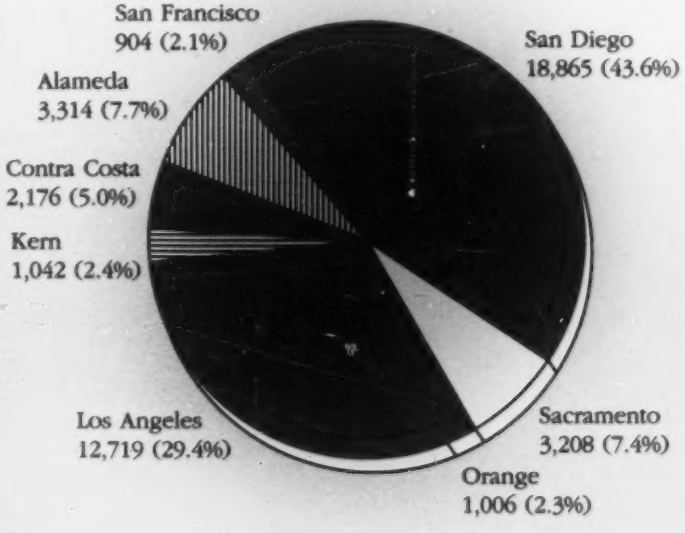
While the San Diego Superior Court has not yet reached the ABA time-to-disposition goal, it has achieved a substantial reduction from a reported average 30 months from filing to disposition before the program commenced.

Firm Trial Dates and Expeditious Trials

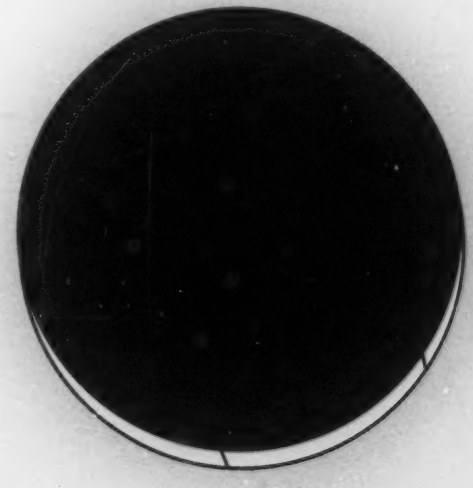
The pilot courts' biggest challenge is to provide timely trials for the new "fast track" cases. Because of the tremendous backlog of cases when the programs started, each of the nine courts will have some, and perhaps a

CHART 1

Total Cases* Added to Delay Reduction Program Fiscal Year 1987-88**



Delay Reduction Cases* As a Percent of Total State General Civil Filings Fiscal Year 1987-88**



* Assigned to program regardless of filing date. Includes all courts except Riverside, where data was not available at the time of publication.
** Figures for San Diego include January through June 1987 in addition to fiscal year 1987-88.

great deal of, trouble trying cases on the first or second assigned date.

Many of the delay reduction courts have set in motion plans to minimize the inevitable conflict of pre-program and new-program cases simultaneously needing a courtroom. Special settlement programs, use of retired judges or senior lawyers to settle and try cases, and other techniques are being used to address the backlog of older civil cases. This type of increased, if only temporary, judicial resource will greatly assist the courts to achieve what is fundamental to a successful program: a firm trial date.

Several of the pilot courts have augmented their caseflow management program by addressing the issue of trial length. By managing each trial more effectively, a court is able to maximize available judicial resources.

During the next year, many delay reduction judges plan to more carefully supervise the jury selection process, attorneys' opening and closing statements, and the presentation of evidence with the goal of eliminating unnecessary delay or interruption of trials.

Each pilot court is working to maximize available resources without sacrificing attention to fairness for all litigants and to the unique characteristics of each individual case.

Conclusion

Early data suggest that each of the nine delay reduction pilot programs has had a positive impact. Measurement is dependent upon additional data, but it appears that all delay reduction courts already have made significant improvements in the pace of litigation or in the expectation of what the pace of litigation should and will be. During the next year, delay reduction pilot courts expect a significant increase in the percentage of cases resolved within 12 months of filing compared to previous years, and many of the "deadwood" or inactive cases are being removed from their systems.

Additional trial courts throughout the state are expected to volunteer to participate in this exciting program. The long-range effort to reduce unnecessary court delay in case processing promises to enhance the quality of justice for all citizens in the state.

CHAPTER 9

ASSESSING JUDGESHIP NEEDS

During 1988, the Judicial Council took three significant actions to improve weighted caseload studies. The council:

- Revised the existing superior court case weights;
- After conducting a survey of the justice court judges and considering alternatives, adopted a formula and rules for use by the State Controller's Office to implement the pro rata block grant provisions of trial court funding;
- Considered and adopted the findings of the 1986 municipal court study for use in the lower courts.

Superior Court Case Weights Revised

A change made during the 1984 superior court weighted caseload study required recalculation of the case weights. Instead of averaging the time reported statewide, the 1984 study averaged each court's case-related time to arrive at the final case weights. However, within two years of adopting the change, it became apparent that the resulting judgeship projections were unrealistically high.

In February 1988, the Judicial Council modified the case weights for superior courts using the prior, aggregate method. The following table lists the approved case weights used to calculate judgeship needs studies during the year just ended:

Approved Case Weights, 1988

Case Category	*Case Weights*
Criminal	236
Juvenile Delinquency	67
Juvenile Dependency	67
Probate and Guardianship	36
Family Law	52
Personal Injury, Death, and Property Damage	67
Eminent Domain	171
Other Civil Complaints	112
Other Civil Petitions	12
Appeals	51
Mental Health	35
Habeas Corpus	24

Block Grants for Part-Time Justice Courts

The Brown-Presley Trial Court Funding Act (Stats. 1988, ch. 944) provides that block grants for part-time justice courts be pro-rated based on the time required to handle the workload of the court. The Judicial Council, following a survey of justice court judges in the state, considered various methods of determining the workload equivalency in part-time courts.

In May 1988, after a review by the courts, the council adopted a formula and rule 750 for use by the State Controller's Office to implement this requirement.

Although the jurisdictions of the municipal and justice courts are identical, the majority of justice courts are part-time. The foundation of the adopted formula is the weighted caseload study conducted in the full-time municipal courts.

Three adjustments, however, are applied to those results for application to trial court funding: the workload equivalency is expressed in increments of only one decimal place (tenths), thereby reducing the number of equivalency categories; a threshold level of .20 is established, recognizing that a certain minimal amount of judicial time is required to operate the smallest courts; and any computed equivalency that is not a full tenth is increased to the next higher category.

Municipal Court Weighted Caseload Study

The results of a 1986 weighted caseload study conducted in the municipal courts were compiled, reviewed, and circulated to municipal and justice courts in the state in 1988. The Judicial Council subsequently adopted the findings for use effective January 1, 1989.

The study, using the same calculation method as employed during the preceding municipal court study conducted in 1977, identified several major differences in case processing times in the intervening period. Among the most significant were:

- A decrease in the case processing time required for felony and misdemeanor group A cases;
- A slight increase in the time required for misdemeanor group C cases;
- An increase in the reported number of days available (primarily due to reduced sick leave);
- A reduction in the time per day available for case-related matters (from 290 to 347 minutes average); and
- The lack of difference in judge-year values based on court size.

Despite these differences, the need for approximately 62 additional judgeships was indicated for the lower courts based on the new case weights and judge-year value.

This estimate is minimal because it is not based on the courts' projected workload as done in judgeship needs studies, but rather represents established need based only on 1986-87 filings.

The new case weights and judge-year value are:

Case Weights

Category	*Weight (in minutes)*
Felony	55
Nontraffic	
Misdemeanors	
Group A	19
Group B	7
Infractions	2
Traffic	
Misdemeanors	
Group C	34
Group D	3
Infractions	.7
Illegal Parking	.04
Civil	
Small Claims	7
Other Civil	10
Judge-Year Value	
All courts	63,300

In completing the study, staff recommended that the pending methodology study, Court Profiles, include four considerations:

- Use of weighted filings as only one measure of need;
- Possible modification of the current weighted caseload approach by the use of a daily time standard (expected number of work hours per day), a standardized allowance for continuing judicial education (including general research time), and appropriate allowances for sick leave and for court administration duties;
- Identify and include performance-based standards in evaluating the need for new positions, including dispositions per judge, dispositions-to-filing ratio, time from filing to disposition, and time required to dispose of active pending caseload; and
- Include subjective assessments in evaluating and prioritizing need, such as on-site visits, caseload management efforts and practices, and travel requirements between courthouses.

Court Profiles

Although the weighted caseload method has proved to be a fairly good indicator of the need for judicial positions over the past 20 years, the demand for a more sensitive measurement is being expressed by the courts and the Legislature.

For this reason, and because other states have been, or are in the process of, identifying various workload measures, the Judicial Council in November 1987 directed staff to study alternative methods to prepare judgeship needs reports.

Overview of Weighted Caseload Studies

For the past 20 years, California has used a weighted caseload system to estimate the amount of judicial time needed in a court to handle the expected caseload.

This method entails periodic time studies to determine the average amount of judicial time currently required to handle each type of case (case weights) and the amount of time available to judges to handle the case-related workload (judge-year value).

From this information, statewide averages are computed and applied to an individual court's projected caseload to estimate the number of judges needed. The calculated number of judges, plus case status and comparative information about the court's workload, are available to the court on request and are considered by the Legislature if a judgeship bill is introduced.

The basic components of the formula are:

The sum of (Case Filings x Weights) = Total Weighted Units

Total Weighted Units ÷ Judge-Year Value = Positions Needed

Current case filing information is obtained from the statistical data reported by trial courts to the Judicial Council on a monthly basis. Filings are projected two years ahead based on observable trends during the previous five years.

Individual case category weights are determined through the time study. All judicial time reported during the study is included to determine the weight. No distinction is made between case-related time occurring on or off the bench, at the courthouse or at some other location, during the regular work week or on the weekends.

Similarly, the time of all subordinate judicial officers is also included in the determination of case weights because each officer's work contributes to the total judicial time required to dispose of the cases filed. Thus, all case-related time of all judicial officers is included in computing the case weights.

A judge-year value, which is an estimate of the amount of time one judge has available to work on case-related matters in one year, is determined by multiplying the number of days-per-year available by the average minutes-per-day reported in case-related work.

Only full-time judges' time during the regular work week is included in determining a judge-year value. Time spent by other judicial officers working for the court is excluded in this portion of the calculation because the measurement to be determined is for new judgeships that are permanent full-time positions.

Additionally, the 1984 superior court weighted caseload study developed and added a descriptive component to the basic formula to identify the non-case-related time required of judges: court administration, civic duties, travel between branches, and general research.

However, since this component adds the non-case time to both the judge-year value and the total weighted units, no difference in the final results is obtained. The additional responsibilities are merely identified.

In response, the Administrative Office of the Courts (AOC) began exploring the development of Court Profiles, a new system to assess the need for judicial resources and to provide more comprehensive management information for trial courts, the Legislature, and the Judicial Council.

This project will compile and examine characteristics that may have an effect on case processing in the individual courts. The salient characteristics will be quantified and tested for reliability as accurate predictors of judgeship needs.

In 1988, a project committee of judges, administrators, and legislative staff was established to develop a conceptual court profile model as a legislative and judicial tool for efficiently allocating and managing trial court resources.

The project committee reviewed a number of alternative methodologies for profiling trial courts, reviewed prototype models developed by AOC staff, and provided direction on the substantive characteristics a court profiles model should incorporate.

Members of the Judiciary Committees in both houses of the Legislature were surveyed to elicit concerns about the present system for assessing judgeship needs.

Staff researched alternative methodologies for allocating and managing judicial resources. Project staff, working with the project committee, developed a preliminary list of data elements for evaluating judicial need. The list of data elements was composed of 50 factors within five categories: workload, performance, judicial staffing, support staffing, and demographics.

A survey of individuals in the law and justice community was conducted to rank and weight possible data elements in terms of their relative importance.

The most obvious conclusions to be drawn from the survey were that interest in a new system for managing judicial resource allocation exists at all levels in the trial court system, and that a clear conceptualization of what a court profiles model would entail is necessary before trial courts can get more involved.

Before developing an actual court profiles model, staff began investigating modeling theories. A mathematical model was tested that allocated judges to courts in 20 sample counties through an iterative process. Another prototype model was developed to evaluate data elements. Other data bases and analytical models such as operations research models, queuing theories, simulation systems, and various software programs were also evaluated for use by the project.

In 1989, major efforts will be directed toward designing a pilot testing program. The project is also undertaking a strategic analysis of the components critical to the successful implementation of the Court Profiles Project. Finally, the project committee will analyze its present status and evaluate the need to elevate its status to that of a full advisory committee.

The Court Profiles Project Committee plans to submit its findings to the Court Management Committee, for presentation to the Judicial Council, in 1989.

CHAPTER 10

JUDICIAL ASSIGNMENTS

Seeking ways to increase the number of judges available to assist California trial and appellate courts continued to be a major priority of the Judicial Council during 1988 and will remain so in the year ahead. Council actions in 1988 focused on increasing the number of judges available for assignment and on improving the method for reimbursing judges who serve on assignment.

California's widely-acclaimed judicial assignments program[1] is recognized as an essential element in the administration of justice. Through this program, active and retired judges are called upon to temporarily replace judges and justices in courts throughout the state. Judges are replaced for such reasons as disqualification, vacancies created by elevation, retirement or resignation and absences due to illness, vacation or attendance at essential conferences or training programs. Judicial assignments are also made to assist overloaded courts and to prevent the dismissal of criminal cases.

The shortage of judges available to assist courts reached critical proportions during 1988. The need to augment the judicial resources available to the trial courts will become even more critical as the "fast-track" cases in the delay reduction pilot courts begin to come to trial. It is generally accepted that the success of the delay reduction experiments will depend upon the ability of those courts to try cases promptly.

1 Article VI, section 6 of the California Constitution mandates the Chief Justice to expedite judicial business and to equalize the work of judges and vests authority in the Chief Justice to provide for the assignment of judges.

Circuit Justice Court Judges Program

Funding

During 1988, the Judicial Council requested funding that would expand the circuit justice court judges program to 30 judges.

This action was taken in response to a recommendation by the Municipal and Justice Court Committee and approved by the Judicial Council in 1987. The recommendation was based on an in-depth study of the need for assigned judges to assist the courts statewide. (See Chapter 13 of last year's annual report.)

The Legislature did not include funding for this program in the 1988-89 budget. However, the Supplemental Report of the 1988 Budget Act directed the Judicial Council to report to the fiscal committees of the Legislature and the Joint Legislative Budget Committee on the need for the expansion of the circuit justice court judges program.

The council was directed to include, but not to be limited by, an assessment of the need for services of assigned judges in the superior and municipal courts following implementation of the Trial Court Funding Program.

On November 16, 1988, a comprehensive report was submitted pursuant to the provision of Control Section 9.00 of the 1988 Budget Act and section 11905 of the Government Code.

A request for funding to expand the circuit justice court judges program to 30 judges will be incorporated into the Judicial Council's 1989-90 budget.

Sunset clause

The Judicial Council also approved a recommendation by the Municipal and Justice Court Committee to seek legislation extending the sunset clause in Government Code section 71702.

This section sets forth the annual salary and qualifications of a circuit justice court judge and is effective until January 1, 1990. Unless the date is extended, a circuit justice court judge's annual salary will be substantially reduced in 1990.

On June 29, 1988, legislation was introduced to amend section 71702. Insufficient time remained in the legislative session to achieve passage of the bill. Therefore, legislation will be reintroduced in 1989 to amend section 71702.

Retired "Circuit" Judges Program

The shortage of judges available for assignment is compounded by the trend toward consolidation of part-time justice courts. In 10 years, the number of justice courts have been reduced from 107 to 76.

Recognizing that justice court judges who lose their courts through consolidation are a potential resource that may be lost to the court system, staff developed a plan to encourage judges to participate in the judicial assignments program. Under this plan, retired justice court judges and justice court judges who are contemplating retirement or deferred retirement in the face of consolidation of districts, will agree to work full-time on assignment for a designated term in return for a municipal court salary and benefits provided by statute.

The program will be funded to the extent funds are available either by a new budget appropriation or from appropriations already available. No legislative action will be required to initiate the program as it will utilize existing constitutional and statutory provisions.

On June 3, 1988, the Judicial Council approved a recommendation of the Municipal and Justice Court Committee to offer contracts to a limited number of retired justice court judges certified as available for full-time assignment.

Implementing the new plan

The first step in implementing the new plan will be to invite applications from retired judges and judges contemplating retirement. After a review of the applications and a determination of available funding, selected judges will be offered a contract under which:

(a) The judge will agree not to practice law, to accept assignments full-time, and serve wherever assigned;

(b) The judge will receive the salary of a municipal court judge, as well as travel expenses and any benefits provided by statute;

(c) The contract will be for a term of six years, subject to renewal by the Judicial Council; the Judicial Council will adopt rules governing vacation, sick leave, and grounds for termination of the contract.

Rules for the operation of the retired "circuit" judges program will be prepared and circulated for comment with a view toward adoption in 1989.

Centralized Payment of Assigned Judges

On June 6, 1988, the Judicial Council approved a recommendation by the Court Management Committee to seek legislation that amends the law on compensation of assigned judges (Gov. Code sections 68540 et seq.) to provide a centralized system within the Administrative Office of the Courts (AOC) to administer payment of all salaries and expenses for assigned judges.

The recommendation was based on the need for a fair and efficient method to pay assigned judges, a problem initially identified by the Municipal and Justice Court Committee in 1987.

Present system

The present system is complex and varied. Depending on the level of court and the judge involved, an assigned judge may receive salary compensation and expenses solely from a county, salary compensation and expenses solely from the state, or expenses from the county and salary compensation from both the county and the state.

In order to receive payment, an assigned judge must complete multiple claim forms as well as the requisite certifications required by various governmental entities. In certain situations, reimbursements for an assigned judge's services must be made between the counties involved.

An assigned judge must contend with delays in the direct payments from counties. Delays in the receipt of compensation payments may range from two weeks to eight months. During these delays, a judge must continue to expend out-of-pocket funds on current assignments.

Receipt of multiple year-end tax forms is confusing and frustrating. As many as 16 W-2 forms representing one year's earnings and expenses have been received by an assigned judge.

No uniformity exists in tax reporting by the counties. Some allow higher mileage rates than exempted by the tax laws, but combine both exempt and non-exempt amounts. Some counties report payment of expenses as salary earned and some counties do not report anything.

Because the compensation statutes are subject to different interpretations, local compensation payment policies vary. Some counties liberally construe the statutes to permit higher payments to assigned judges. Counties that apply stricter interpretations pay less.

Improved system

Under the new program, payment for all salary compensation and expenses of assigned judges will be centralized within the AOC. Payment for both the state and county portions of salary compensation as well as expenses allowed by the State Board of Control will be paid by the AOC to active and retired judges who serve in the superior courts, municipal courts and justice courts.

The AOC will request reimbursement from the counties for that portion of the payment made but chargeable to the counties, i.e., expenses and the county's portion of salary compensation. In counties that pay a higher mileage rate than allowed by the State Board of Control, an assigned judge will claim the additional amount directly from the county.

By centralizing payment within the AOC, assigned judges will receive timely payment for services rendered. Although assigned to more than one county during a given month, a judge will receive one check representing all amounts due for that month.

Separate categories for salary compensation and expenses paid will be maintained by the AOC. At year's end, assigned judges will receive one W-2 Form representing salary compensation and a separate report representing expenses paid.

With only one governmental agency interpreting the compensation statutes, uniformity in payment can be achieved.

Legislative action

On June 29, 1988, legislation was introduced to amend the law on compensation of assigned judges, but insufficient time remained in the legislative session to achieve passage of the bill. The legislation will be reintroduced in 1989.

The 1989 legislation will also include amendments to permit a retired judge to continue receiving his or her pension while serving on assignment and to claim the difference between the amount of that pension and any compensation due from the AOC. The AOC will reimburse the Judges' Retirement Fund for the amount of the pension paid to a retired judge while serving on assignment.

CHAPTER 11

AUDIO & VIDEO RECORDING DEMONSTRATION PROJECTS

Interest in courtroom applications of audio-visual technology has grown considerably over the past 30 years. At first adapted primarily by the news media to broadcast or televise newsworthy court proceedings, other applications have been proposed as the technology's potential has expanded.

Many jurisdictions throughout the United States now employ various technology applications, such as audio and video court recording systems for maintaining the oral record, training, and education; video depositions and child abuse witness testimony; closed circuit television for video arraignments; and personal computers with camera and sound for communication.

The Judicial Council is currently involved with three different applications of audio-visual technology in the courts.

Audio and Video Recordings as the Court Record

Under the direction of the Judicial Council, the Administrative Office of the Courts (AOC) in 1974 conducted a study of court reporting in California municipal courts to determine whether electronic recording could be used in courts without certified shorthand reporters.

At the time of the study, municipal courts did not uniformly maintain records of all proceedings. Some courts provided a stenographic reporter for all proceedings, others employed reporters only for felony preliminaries, and a range of other practices existed between these two extremes.

In the absence of stenographic reporters, the majority of municipal courts relied on the handwritten minutes of courtroom clerks to make court records. The AOC study indicated that electronic recording could be used to make court records or to supplement existing court record-making systems.

The study led to measures permitting and regulating the use of electronic recording in municipal courts. The most important of these are Government Code section 72194.5, which authorizes electronic recording in municipal and justice courts under certain circumstances; rule 980.5, California Rules of Court, which specifies the basic monitoring, tape-preservation and certification procedures to be used when electronic recording is done as the record; and unnumbered specifications for audio electronic recording equipment, adopted by the Judicial Council to implement section 72194.5.

In 1986, the Legislature passed Assembly Bill No. 825 (Stats. 1986, ch. 373), which added section 270 to the Code of Civil Procedure. This legislation authorized demonstration projects of audio and video recording in the superior courts of specified counties. These recordings are to be in lieu of the record prepared by court reporters.

The purpose of the project is to assess the costs, benefits and acceptability of utilizing audio and video recordings in lieu of a record prepared by the court reporter. The bill became effective January 1, 1987, and provided that demonstration projects undertaken pursuant to it be terminated on or after January 1, 1991, but no later than January 1, 1992.

As of year-end 1988, Los Angeles County was the only county to undertake a demonstration project. The Los Angeles County Superior Court submitted its first technical report on the project to the AOC in November. The report indicated that the project became operational March 3, 1987, with five project departments located in downtown Los Angeles.

Though not part of the original project design, nine other Los Angeles departments began using electronic recording beginning March 1, 1988, when the parties agree by stipulation. The 14 departments consist of one civil master calendar, one mandatory settlement conference, seven family law and five law and motion and discovery departments.

Electronic recording of the oral proceedings in Los Angeles County Superior Court is accomplished by the placement in the courtroom of a multitrack dual deck cassette recorder designed specifically, but not exclusively, for court recording. The recorders used in the project have four tracks and the capacity to receive input from eight microphones (one or two per track). Each tape recorder contains a digital counter. A synchronized remote digital counter is placed at the judge's bench to permit monitoring of recorder operation.

Each recorder is operated and monitored by a staff person designated as an "electronic recording monitor." The monitor also maintains a handwritten log of proceedings that is keyed to the digital counters. The log is used to locate material for readbacks (playbacks) and function as an aid for transcribers.

Duplicate tapes of proceedings playable on home or office recorders are available for $10 per tape. These are produced by monitor supervisory staff. Transcripts are provided upon request.

Transcripts are provided on a regular (30-day), expedited (7-10 day) or daily time frame. Of 104 questionnaire responses, 103 indicated transcripts were done on time. With the electronic recording system, the historical court reporter functions are bifurcated. Responsibility for transcripts is not a function of the in-court electronic recording monitors, but rather is performed by private transcribers. The court assumes a more active role of monitoring transcript order, delivery, quality and cost.

Between March 3, 1987, and August 31, 1988, only 56 equipment malfunctions occurred, resulting in a total of 18 minutes of court downtime for all 14 courts. Malfunctions were found to be the result of inadequate maintenance, ejected blank tapes and operator inexperience. The short amount of downtime was due to a sufficient amount of readily available backup equipment.

Several factors were found to affect ease of playback. These included the monitor's proficiency with the equipment and log keeping and the monitor's comfort level in the courtroom, which was directly related to performance of acceptable readbacks as evaluated by the judicial officer. Training in all three areas was considered essential for acceptable readbacks. Other factors were equipment, sound quality, tape quality and courtroom acoustics.

Questionnaires designed to rate attorney satisfaction were distributed with duplicate tapes and completed transcript requests. Between March 3, 1987 and August 31, 1988, a total of 1,233 tapes were ordered, the largest number of orders coming from family law and law and motion and discovery proceedings.

More than 85 percent of the responses to the user satisfaction questionnaire indicated satisfaction with the tapes. During this same period, 737 requests for transcripts were received, 77 percent from law and motion and discovery proceedings. Responses indicated that 89 percent of the users were satisfied that the transcript was accurate; 84 percent indicated a favorable assessment of the Electronic Recording Project.

In summary, the project staff in Los Angeles Superior Court found that electronic recording provided the following benefits:

- Solves shortages of certified shorthand reporters. It was reported that the court is often unable to recruit sufficient reporters to meet vacancies due to attrition, additional judgeships,or rent-a-judge programs.
- Fills staffing needs during vacancies due to illness and vacations.
- Allows flexibility to provide a record of oral proceedings in courtrooms unattractive to reporters due to large calendars and small transcript or short expedited transcript requests.
- Decreases costs. A savings of $28,000 per courtroom using electronic reporting instead of certified shorthand reporters was reported.
- Increases office space. Monitors were not provided with an office in which to work as are reporters and some transcribers.
- Saves costs due to lower salaries of monitors as compared to court reporters.
- Provides savings to attorneys and litigants through the use of duplicate tapes of proceedings. These can be used in lieu of transcripts at a substantial savings to review proceedings, plan for future proceedings and determining whether or not to request a transcript and whether it should be full or partial.
- Improves service to judges, attorneys and litigants through availability of duplicate tapes of proceedings for review within 2 to 24 hours.
- Improves service to attorneys, litigants and others through timely production of transcripts.
- Provides regular, expedited or daily transcripts in a timely and reliable manner.
- Increases control of the record-keeping process by the court.
- Creates an additional career ladder for lower level clerical staff.

The project staff concluded that the first part of the demonstration project indicates that electronic recording is a useful and beneficial supplement to the use of certified shorthand reporters for recording and maintaining a record of the oral proceedings.

Electronic recording as a means of maintaining the record of oral proceedings is currently used by 36 states, as well as by the United States federal courts, which implemented the technology in 1982. All 36 states that employ electronic recording use some form of audio technology. Five also use video recording and all but one (Alaska) also use court reporters.

Video Arraignments

Statutes of 1983, chapter 197 added section 977.2 to the Penal Code to permit the establishment of two-year pilot projects for the arraignment of defendants on felony charges by two-way audio-video communication between a defendant in jail and the courtroom. Projects were authorized in San Diego and Sacramento Counties. After enactment of the legislation, more counties became interested in using television. This interest led to 1984 legislation enlarging provisions of section 977.2 to 1) include additional counties; 2) extend the duration of the project to four years; 3) include the arraignment of defendants in superior court as well as municipal court; and 4) permit the arraignment of defendants in any state, county or local penal facility within the county.

Later amendments to this section have expanded the counties included in the pilot project to Contra Costa, Los Angeles, Orange, Riverside, Santa Clara and Stanislaus. Penal Code section 977.3 was added by Statutes of 1988, chapter 1336, to permit a similar project in Alameda County.

Reasons for using closed-circuit television are (1) to reduce the cost of transporting defendants to court; (2) to eliminate security problems; (3) to minimize prearraignment detention time and costs; and (4) to eliminate defendants' discomfort in being shackled and spending long periods in court holding cells.

Legislation expressly authorizing video arraignment was necessary because Penal Code section 977 provides that a felony defendant must be present in court "at the time of arraignment, at the time of plea, during the preliminary hearing, during those portions of the trial when evidence is being taken before the trier of fact and at the time of imposition of sentence." The same section provides that a person charged only with a misdemeanor may appear by counsel, and not in person. The Attorney General concluded that the statutory provisions for felony defendants showed an intent that the felony defendant be present — a nonwaivable requirement precluding use of remote video.

By enacting Penal Code sections 977.2 and 977.3, the Legislature authorized experimental projects in specified counties to see if felony defendants should be permitted to waive their physical presence and appear for arraignment via television.

This is an area of national interest and several other states are involved in similar projects involving court-jail communication.

Video Testimony of Child Abuse Victims

Statutes of 1985, chapter 43, added Penal Code section 1347(j) to permit a court in any criminal proceeding, upon motion, to order the testimony of a minor 10 years of age or younger involving an alleged sexual offense to be taken by contemporaneous two-way closed-circuit television.

The minor's testimony must involve a recitation of the facts of an alleged sexual offense. The court must find that one or more of the following four

different factors will make the minor unavailable as a witness unless closed-circuit television is used:

- Threats of serious bodily injury or other specified harm to the minor or a family member in order to prevent or dissuade the minor from testifying or prosecuting;
- Use of a firearm in the commission of a crime;
- Infliction of great bodily injury during the commission of the crime; or
- Conduct by defendant or defense counsel during the hearing or trial that causes the minor to be unable to continue his or her testimony.

The McMartin School case in Los Angeles County was one of the precipitating factors leading to the enactment of the statute. The preliminary hearing was presided over by Los Angeles Municipal Court Judge Aviva Bobb, who noted that the procedure was used only for one child—an 8- to 10-year-old boy. Thirteen other children testified in the preliminary hearing without television. Judge Bobb noted that this boy's testimony was clearer and more relaxed and he was more alert and attentive to the questions than the other children testifying in the case.

The equipment setup had three monitors in the room with the child, one showing the attorney asking the questions, one showing three of the defendants, and one showing four of the defendants.

Judge Bobb stated that one defense attorney indicated that the television procedure made it nearly impossible to establish rapport with the witness for effective cross-examination.

According to the judge, a helpful purpose of the statute is removing some of the emotional distress felt by some children testifying, especially fear from being in the same room as the defendant. She noted that earlier in the preliminary hearing, when section 1347 had not been enacted, two young witnesses were clearly intimidated by one of the defendants.

Court Interest Remains High

The applications of audio-video technology described above represent just some of the many opportunities this technology offers to courts. Research has shown increasing state and national interest in applications that reduce costs, improve communications and reduce delay. The results of California's demonstration projects have shown a range of important benefits, which is likely to stimulate further exploration of audio and video technology applications in the courts.

CHAPTER 12

CHANGES IN THE CALIFORNIA RULES OF COURT

During 1988, the Judicial Council adopted 19 new rules and one new recommended Standard of Judicial Administration and amended 22 rules and two standards.

Appellate Rules

Deposit of fee for clerk's transcript (rule 1)
Rule 1(c) was amended to require an appellant in a civil appeal to deposit the amount for the clerk's transcript at the time appellant pays the filing fee. This amendment restates the requirement of Government Code section 68926.1 and is included in the rule to reduce confusion about what fees must be paid at the time of filing the notice of appeal.

Limit on use of settled statements (rule 7)
The council, responding to a suggestion by a superior court judge, amended rule 7 to provide that a settled statement procedure can be used if a transcript is unavailable because the appellant cannot afford one or because of specified problems relating to the court reporter. The use of a settled statement would also be permitted if the trial judge determines, on noticed motion, that a substantial cost saving would be achieved by a settled statement and the statement can be settled without significant burden on either the opposing party or the court. The amendment does not affect the use of agreed statements.

Petition for review in Supreme Court (rule 28)
The council amended rule 28 to clarify that counsel filing a petition for review is to determine whether the significance of an exhibit is sufficiently unusual to merit annexation to the petition for review. The rule was also amended to permit the attachment of a trial court order whose review is sought.

Experimental project for Orange County juvenile appeals (rule 39.2)
Recent legislation (Stats. 1988, ch. 805) requires the Judicial Council to implement a four-year pilot project in Orange County to expedite appeals from proceedings under Welfare and Institutions Code section 366.26 or Civil Code section 232 (freedom from parental control). The council adopted rule 39.2 to establish procedures governing appeals in the project.

Trial court rules and standards

Transcript of electronic recordings offered in evidence (rules 203.5 and 503.5)
The council adopted rules 203.5 and 503.5 to provide that a party offering an electronic recording into evidence must tender to the court and opposing parties a written transcript of the recording. The transcript is to be marked for identification and will constitute part of the clerk's transcript on appeal.

Civil calendaring systems (rules 205, 224)
The council deleted the master calendar requirement in civil cases and gave the superior courts discretion to adopt a calendaring system that will advance the goals of case-flow management and delay reduction (rule 224). To conform to the change in rule 224, technical amendments were made to rule 205.

Submitted matters in the trial courts (rules 205.1, 532.6, and 825)
New rules were adopted which would define submission of a cause in the trial courts and impose a duty upon presiding and sole judges of trial courts to monitor and supervise causes under submission.

Dismissal of cases (rule 225)
The council amended rule 225 of the California Rules of Court to (1) require dismissal of cases 45 days after notice of settlement, and (2) require a notice of stay and a notice if stay is vacated. Amended rule 225 will assist courts in identifying inactive cases from the active cases that may require judicial attention.

Technical amendments to the rules (rules 229, 701, 1600.5, and heading to chapter 2 of division V of title two)
The council adopted several housekeeping amendments to the rules of court including updating a cross-reference in rule 229(b), updating a division number cross-reference in rule 701, deleting the reference in rule 1600.5 to the terminated Economical Litigation Project, and adopting a heading to chapter 2 of division V of title two of the rules.

Appearance by telephone (rule 298 and 826; section 21)
Rule 298 was adopted to implement the telephone appearance project and designate the pilot project courts. It allows local courts to charge a fee for the costs associated with teleconferencing procedures and requires each court to ensure that all the participants in the teleconferencing can be heard. Subsequently, in order to further implement the procedure for all counties (Gov. Code, § 68070.1), the council made telephone appearance rules applicable to all counties and removed certain restrictions on the use of the procedure (rule 298); provided a method for a party to indicate an intention to appear by telephone (rule 826); and recommended local procedures and criteria for equipment (section 21).

Justice court block grants (rule 750)
The council adopted rule 750 to provide a formula for determining the amount of a block grant for a part-time justice court under the Trial Court Funding Act. The computation uses the case filing weights and judge-year values applicable to municipal courts, rounds the value up to the next 10 percent, and establishes a minimum workload of 20 percent.

Court operations—trial court funding (rule 810)
Rule 810 specifies what budget items are costs of court operations under Government Code section 77001 and are eligible for funding under the Trial Court Funding Act. Pursuant to the rule, the council has published a List of Approved Costs with the items classified in four general categories: judicial salaries and benefits; nonjudicial salaries and benefits; services and supplies; and indirect costs. After its adoption, the council amended the rule to include within the definition of court operations the cost of collective bargaining and made conforming amendments to the List of Approved Costs. The council also amended the List of Approved Costs by eliminating the previous limit of one sheriff, marshal, or constable per judicial position.

Traffic bail schedule (rule 850)
The council amended rule 850 to encourage municipal and justice courts in the annual revision of bail schedules to require additional bail for aggravating or enhancing factors as required by Penal Code section 1269b. The council also revised the Uniform Traffic Bail Schedule as required by legislation (Stats. 1988, ch. 988).

Confidentiality advisory letter by Commission on Judicial Performance (rules 904.1 and 904.2)
The council adopted rules that codify an existing practice of the Commission on Judicial Performance of issuing a confidential advisory letter in an appropriate case after either a staff inquiry or a preliminary investigation. The advisory letter serves a warning or counseling function for judges whose conduct is not severe enough to warrant further action.

Clarification of the procedures for commencing a Commission on Judicial Performance proceeding and for private admonishment (rules 904 through 904.5)
The council adopted rule changes that: clarify the initial steps of a commission proceeding (rules 904(a) and (b)); provide for notice to the judge's residence address or to an address designated by the judge (rule 904.4); provide, under certain circumstances, for notification to the judge of the existence of a complaint and its disposition (rule 904(c)); provide for termination and notice of termination to the judge when a staff inquiry does not result in any action by the commission (rule 904.1); delete the requirement that limits the commission to no more serious penalty than private admonishment if a judge contests the commission's notice of intended private admonishment (rule 904.5); create an observation period, not to exceed two years, during a preliminary investigation (rule 904.2(d)).

Miscellaneous new and amended Commission on Judicial Performance provisions (rules 904.6, 909, and 920)
The council adopted miscellaneous rule changes that: provide for the use of commission records and a records retention program in conformity with the statute of limitations contained in the constitution (rule 904.6); provide for the use of the California Evidence Code in commission proceedings (rule 909(a)); and amend the procedures for petitions for review of private admonishment to correct several technical defects (rule 920).

Discovery in Commission on Judicial Performance proceedings (rules 907.5 and 915)
The council adopted new rules governing discovery in commission proceedings that: generally track the language of all but two of the existing commission policy statements on discovery (rule 907.5); provide under limited circumstances for disclosure of information favorable to the judge (rule 907.5); provide for depositions, in a manner similar to the rule in other administrative proceedings, when a material witness is unable, or cannot be compelled, to attend the hearing (rule 907.5); and permit a continuance for good cause to conduct reasonable discovery (rule 915).

Laser printing of Judicial Council forms (rule 982)
The council amended rule 982 to expressly permit the use of legal forms produced entirely by a laser printer or similar device. The amendment also provides that a party or attorney by the act of filing any form certifies that the form is a true and correct copy.

Computer-printed Judicial Council forms (rule 982.9)
The council amended rule 982.9 to extend indefinitely the use of computer- and word processor-printed proof of service of summons forms. Experimental use of computer- and word processor-printed family law forms will end in two years.

Use of federal child support forms (rule 1276)
Acting in response to recently adopted federal regulations, the council added rule 1276 to permit district attorneys to use certain federal child support forms in actions brought in state courts under the Uniform Reciprocal Enforcement of Support Act and for registration of a foreign support order.

Technical amendments to the juvenile court rules (rules 1331, 1334, 1337, 1341, 1363, 1364, and 1365)
The council amended several juvenile court rules to conform to the recent statutory changes in jurisdictional definitions contained in section 300 of the Welfare and Institutions Code (Stats. 1987, ch. 1485).

Case Processing Standards (section 2.1)
The council amended section 2.1 of the Standards of Judicial Administration, effective January 1, 1989, to recommend that each superior court should process general civil cases to meet the following three goals: (1) by January 1, 1989, all cases should be disposed within four years of filing; (2) by January 1, 1990, all cases should be disposed within three years of filing; and (3) after January 1, 1991, all cases should be disposed within two years of filing. The one-year felony case processing time standard (from the first appearance in any court to disposition) adopted in 1987 was extended and may be reevaluated when the council considers time standards for the municipal and justice courts in 1989. The council excepted death penalty cases from the one-year felony standard. The new interim standards also recommend that each superior court should dispose of at least as many cases as are filed each year and, if necessary to meet the case-processing standards, dispose of more cases than are filed.

Technical amendment to the Standards of Judicial Administration (section 8)
The council repealed subdivision (d)(17) of section 8 of the Standards of Judicial Administration to conform to legislative changes (Code Civ. Proc., § 1260.210(b)). The subdivision dealt with examination of jurors in eminent domain cases.

CHAPTER 13

JUDICIAL COUNCIL LEGAL FORMS

During 1988, the Judicial Council approved 10 new forms and revised 24 forms for statewide use in the courts. The forms were prepared and recommended by the Judicial Council Advisory Committee on Legal Forms, a statewide committee with representation from the State Bar, the judiciary, and the court clerks' offices.

Camera-ready masters of the new and revised forms were sent to the trial courts, allowing each court to reproduce the forms for local use. Several legal publishers reproduce and supply the forms.

An explanation of the new forms and background on the changes to existing forms follow.

General Legal Forms (Rule 982)

Request for Entry of Default

In response to statutory changes and suggestions from judges, clerks, and attorneys, the council revised the Request to Enter Default and changed the form's name to Request for Entry of Default, a mandatory form under rule 982(a)(6). The form is also used to request a clerk's judgment or a court judgment.

The most important change was the addition of lines to enter the amounts of general and special damages as requested in the statement of damages (Code Civ. Proc., §§ 425.10, 425.11). The form was also revised to require entry of the date the applicable complaint was filed and the name of the party filing it. A place was added to allege, "CCP 1174(c) does not apply," which is designed to expedite the issuance of a writ of possession as intended by section 1169 of the Code of Civil Procedure.

A line was added to state the amount of daily damages demanded in the complaint. This information will assist the court in computing the amount of the judgment in actions praying for daily damages (e.g., unlawful detainer, breach of contract, etc.). Other technical changes also were made to the form.

Family Law Forms

General Family Law forms
(Rule 1280 et seq.)
Several family law forms were revised or adopted. *The Hardship Deduction Schedule for Children Residing with Parent* (rule 1285.26) was adopted as required by legislation (Civ. Code, § 4725; Stats. 1988, ch. 1295). These tables will be used under the Agnos Child Support Standards Act to determine the maximum deduction for the basic living expenses of resident dependent minor children from other relationships.

The *Application and Order for Health Insurance Enrollment* (rule 1285.75) was adopted in response to legislation (Civ. Code, § 4726.1; Stats. 1988, ch. 1395). The form may be used to apply for a court order requiring an employer to enroll supported children in a health insurance plan and to deduct the cost from the supporting parent's earnings. The form includes an order and has instructions for the employer and employee. The form also has a declaration for an employer to sign if no health insurance coverage is available (Civ. Code, § 4726.1 (f)).

The *Abstract of Support Judgment* (rule 1285.80) was amended to add the birthdate of the judgment debtor as required by legislation (Stats. 1988, ch. 153; adding Code Civ. Proc., § 674 (b)). When recorded, this abstract of judgment creates a lien on real property for child support, family support, or spousal support.

The *Joint Petition for Summary Dissolution of Marriage* (rule 1295.10) was amended as required by statute (Civ. Code, § 4550) to reflect changes in the California Consumer Price Index. The maximum community or separate property was increased to $15,000 (from $14,000). The maximum community debt was increased to $5,000 (from $4,000). Couples whose debts or property exceed these amounts do not qualify for the summary dissolution procedure. The amounts will be reviewed again in two years.

Minimum Child Support forms
Two forms used in calculating minimum child support were revised to reflect changes in the AFDC minimum basic standards of care as approved by the California Department of Social Services. The forms are the *Minimum Child Support Worksheet* (rule 1285.25) and *Appendix A* of the *Minimum Child Support Information Booklet* (rule 1285.25(B)).

Domestic Violence Prevention forms
The *Application for Emergency Protective Order* (rule 1295.90) and the *Emergency Protective Order* (rule 1295.95) were adopted in response to legislation (Stats. 1987, ch. 758). The amended domestic violence prevention law (Code Civ. Proc., § 540 et seq.) allows a law enforcement officer responding to a domestic violence call at a time when a court is not in session to telephone a judge and request issuance of a restraining order (Code Civ. Proc., § 546, (b)). The legislation directs the Judicial Council to prescribe the form of the order and any other documents required to implement the law.

The council also revised the 12-page booklet, *Instructions for Orders Prohibiting Domestic Violence* (rule 1296(A)). The instructions are required by section 543 of the Code of Civil Procedure.

Enforcement of Judgment forms
The *Writ of Possession (Writ of Execution)* (form EJ-130) was revised in response to legislation (Stats. 1988, ch. 1405) that amends the procedure in unlawful detainer cases for tenants who are not named in the writ of possession to object to enforcement of the judgment against them. (See *Arietta* v. *Mahon* (1982) 31 Cal.3d 381.) The legislation requires the writ to include "[t]he daily rental value of the property" because *Arietta* claimants in some cases will be required to deposit 15 days' rent with their claim forms (Code Civ. Proc., § 1174.3, (c)).

Probate Forms

In response to legislation reforming parts of the Probate Code (Stats. 1987, ch. 923), the Judicial Council revised eight optional probate forms, approved four new optional forms, and adopted one new mandatory form. The changes were required by substantial revisions in the Probate Code of the laws governing four areas of estate administration: supervised administration of decedents' estates (Prob. Code, §§ 9600-10382); Independent Administration of Estates Act (Prob. Code, §§ 10400-10600); creditor claims against decendents' estates (Prob. Code, §§ 9000-11446); and notice in probate proceedings (Prob. Code, §§ 1200-1299).
The new and revised forms are:

- Petition for Probate (for deaths after December 31, 1984) (DE-111)
- Notice of Hearing (Probate) (DE-120)
- Notice of Death and of Petition to Administer Estate (DE-121)
- Order for Probate (DE-140)
- Letters (DE-150)
- Request for Special Notice (DE-154)
- Notice of Administration to Creditors (DE-157)
- Notice of Proposed Action (Objection-Consent) (DE-165)
- Waiver of Notice of Proposed Action (and Revocation of Waiver) (DE-166)

- Creditor's Claim (for estates filed after June 30, 1988) (DE-172)
- Allowance or Rejection of Creditor's Claim (for estates filed after June 30, 1988) (DE-174)
- Report of Sale and Petition for Order Confirming Sale of Real Property (DE-260) (GC-060)
- Order Confirming Sale of Real Property (DE-265) (GC-065)

The *Waiver of Notice of Proposed Action* (form DE-166) is made mandatory by section 10600(a) of the Probate Code. Other Judicial Council probate forms are generally optional unless a local rule makes them mandatory.

In addition, other legislation required amendments to several probate forms. The *Affidavit re Real Property of Small Value* (form DE-305) and the *Petition to Determine Succession to Real Property (Estates $60,000 or Less)* (form DE-310) were amended to include the name and address of the guardian or conservator of a decedent's estate at the time of death (Stats. 1988, ch. 1447).

The *Petition for Appointment of Guardian of Minor* (form GC-210) was amended so petitioners could state whether they "have accepted or intend to accept physical care or custody of the child with intent to adopt" as required by subdivision (g) of Probate Code section 1510. A recent appellate case requires the Declaration Under Uniform Child Custody Jurisdiction Act (form MC-150) to be filed in all probate guardianships of the person of a minor. (See *Guardianship of Donaldson* (1986) 178 Cal.App.3d 477, 489 (fn. 6).) The council added a place on the petition form to indicate that the required declaration is attached if a guardian of the person is being sought.

A technical amendment was made to the *Order Determining Succession to Real Property (Estates $60,000 or Less)* (form DE-315). The council amended this form to clarify that the name of each petitioner must be stated along with the specific property interest passing to him or her. The council also added a box for the recorder's stamp.

Small Claims Forms

Legislation (Stats. 1988, ch. 481) increased the jurisdiction limit in small claims actions from $1,500 to $2,000 effective January 1, 1989, unless a "defendant guarantor . . . is required to respond based upon the default, actions, or omissions of another," in which case the limit remains at $1,500 (Code Civ. Proc., § 116.2). The council revised the following mandatory small claims forms to reflect the change:

- Plaintiff's Claim and Order to Defendant (form SC-100)
- Plaintiff's Claim and Order to Defendant—Unlawful Detainer (form SC-110)
- Information for the Plaintiff (form SC-150)

The council authorized continued use of existing supplies of small claims forms SC-100, SC-110, and SC-150 until June 30, 1989, if its *Jurisdictional Amount Information Sheet* (form SC-152) is distributed with each form.

CHAPTER 14

SUMMARY OF 1988 LEGISLATION

During the 1988 session, the Legislature proposed three amendments to Article VI of the Constitution, which California voters approved on the November ballot.

Assembly Constitutional Amendment No. 12 (Stirling) establishes justice courts as courts of record as of January 1, 1990.

Senate Constitutional Amendment No. 6 (Davis) changes several procedures of the Commission on Judicial Performance, and permits some types of commission hearings to be conducted in public.

Assembly Constitutional Amendment No. 17 (Chacon) permits judges to engage in part-time teaching in publicly supported law schools and institutions as well as in the private sector.

The 1987 trial court funding legislation also received considerable attention. Substantial changes are contained in Senate Bill No. 612 (Presley) and Assembly Bill No. 1197 (W. Brown). Revisions also were enacted by Assembly Bill No. 3830 (W. Brown) to facilitate implementation of the delay reduction program.

Other measures enacted at the request of the Judicial Council included Assembly Bill No. 3698 (Harris), which expands the number of judges eligible to provide assignment assistance as senior judges, and Assembly Bill No. 4445 (Vasconcellos), which improves and expands volunteer services for minors who become involved in the juvenile courts. The council also supported an increase in small claims court jurisdiction, enacted by Assembly Bill No. 1913 (Harris), and a modernized jury administration law, enacted by Assembly Bill No. 2617 (Harris).

Two other measures were introduced as a result of Judicial Council action and were not enacted. Senate Bill No. 2530 (Lockyer), which would have established uniform filing fees in counties opting for state funding, passed the Senate, but was held in the Assembly pending action on the state funding bills. Provisions to establish a uniform payment system for judges sitting on assignment were added late in the session to Senate Bill No. 2138 (Presley), but the bill remained in the Senate.

Below is a summary of the most significant measures enacted into law during 1988.

Commission on Judicial Performance

Senate Constitutional Amendment No. 6, introduced by Senator Davis, and approved by the electorate in November, provides staggered terms for members of the Commission on Judicial Performance. It also permits public hearings in cases involving moral turpitude, corruption, or dishonesty, and permits public admonishments to take place, with the judge's agreement, prior to a hearing, and without action by the Supreme Court. The constitutional amendment passed the Legislature as Resolution Chapter 67.

Courts of Record

Assembly Constitutional Amendment No. 12, introduced by Assembly Member Stirling and approved by the electorate in November, establishes justice courts as the courts of record, effective January 1, 1990. It also requires such judges to have five years' legal experience, but the five-year membership or service requirement does not apply to judges who held office on January 1, 1988. The constitutional amendment passed the Legislature as Resolution Chapter 65.

Part-time Teaching by Judges

Assembly Constitutional Amendment No. 17, introduced by Assembly Member Chacon and approved by the electorate in November, permits judges to accept part-time teaching positions in a public institution when it does not interfere with regular judicial duties and is undertaken outside normal working hours. The amendment also prohibits judges from earning additional public retirement credit for outside public employment beyond what would necessarily accrue from their judicial positions. The constitutional amendment passed the Legislature as Resolution Chapter 70.

Trial Court Funding

Senate Bill No. 612, introduced by Senator Presley, enacts the Brown-Presley Trial Court Funding Act. The trial court funding appropriation, and allied provisions, are contained in AB 1197 by Assembly Member Willie Brown. It provides for block grant state funding for the trial courts on a county option basis with no requirement for the transmittal of fees, fines, and forfeitures to the state. Judges will participate in county decisions to opt into state funding. The measure specifies that after July 1, 1989, justice court judges in option counties receive the same salary as municipal court judges, prorated on the basis of workload. Senate Bill 612 was enacted as Chapter 945, and AB 1197 as Chapter 944, with urgency effective dates of September 16, 1988.

Family Law

The following five significant bills pertaining to family law issues were enacted:

Senate Bill No. 1306, introduced by Senator Morgan, provides that custody preferences in the best interests of a child establish neither a preference nor a presumption for or against joint legal custody, but allow the court and the family widest discretion to select a parenting plan. The bill was enacted as Chapter 1442.

Senate Bill No. 2510, introduced by Senator Robbins, requires the Judicial Council to adopt uniform standards of practice for mediation under the Family Law Act by January 1, 1990, and outlines the training to be provided by the Judicial Council to personnel involved in family law proceedings. The bill was enacted as Chapter 1550.

Senate Concurrent Resolution No. 76, introduced by Senator Robbins, requests the Judicial Council to make recommendations to the Legislature on the feasibility of establishing a fund for payment of compensation and expenses to court-appointed counsel for a minor child in a dissolution action. The resolution was adopted as Resolution Chapter 91.

Assembly Bill No. 2840, introduced by Assembly Member Harris, expressly permits a court-appointed private counsel to represent a minor child to order the parties to pay the compensation in the proportions it deems just. The bill establishes a parent's duty to support a child until completion of twelfth grade or age 19, makes copies of the parents' federal (in addition to state) tax returns for the previous two years subject to discovery, and allows the court to submit division of the community property to arbitration if the total value of the property does not exceed $50,000. The bill was enacted as Chapter 153.

Assembly Bill No. 3897, introduced by Assembly Member Harris, permits an interlocutory appeal of bifurcated issues under the Family Law Act if the superior court has ruled on the bifurcated issues and certified that an appeal is appropriate. Upon certification, the Court of Appeal may order the issue transferred to it. Rules established by the Judicial Council by July 1, 1989, are to govern the certification procedure. The bill was enacted as Chapter 678.

Informational Pamphlets
Senate Bill No. 1957, introduced by Senator Rogers, requires the Judicial Council to prepare a pamphlet explaining the nature of guardianship of a minor and the rights, duties, and obligations of a person serving as guardian of a minor in order to have definitive and uniform direction on such matters, and to have consistent information on these guardianships through the state. The pamphlet is to be prepared in English and Spanish and distributed to the superior courts in the state for use in guardianships and for such other purposes as may be directed or permitted by the Judicial Council. The bill was enacted as Chapter 457. Similarly, Senate Bill No. 2352, introduced by Senator Mello, requires counties to provide private conservators with written information concerning their rights, duties, limitations, responsibilities, and other relevant information, based upon a Judicial Council information package. This bill makes an appropriation to the Judicial Council, and authorizes the counties to charge conservators a fee not to exceed $10 for the information. The bill was enacted as Chapter 742.

Attorney Discipline
Two significant bills pertaining to attorney discipline were enacted:

Senate Bill No. 2818, introduced by Senator Lockyer at the request of the Judicial Council, permits the Supreme Court to provide by rule for review of State Bar disciplinary matters in the Courts of Appeal. This was one of the recommendations made by the Select Committee to review the Internal Procedures of the Supreme Court, which was appointed by the Chief Justice in 1986. The bill was enacted as Chapter 1217.

Senate Bill No. 1498, introduced by Senator Presley, revamps the attorney discipline procedure of the State Bar, providing for a full-time paid staff of adjudicators and revised procedures. It expressly permits the Supreme Court to adopt rules authorizing the State Bar to impose discipline or disbar an attorney without further Supreme Court action unless there is an appeal. A court that holds an attorney in contempt or imposes sanctions may notify the bar if the conduct would warrant discipline. Implementing rules must be adopted by the Supreme Court. The bill was enacted as Chapter 1159.

Delay Reduction in Dependency Appeals
Assembly Bill No. 703, introduced by Assembly Member Allen, directs the Judicial Council to implement a four-year pilot delay reduction project in Orange County for appeals from judgments freeing minors who are dependent children of the juvenile court from parental custody and control. A report to the Legislature on the effects of the project is due April 1, 1993. The bill was enacted as Chapter 805.

Disability and Retirement Restrictions
Assembly Bill No. 1562, introduced by Assembly Member Johnson, denies retirement benefits to any judge convicted of a felony that involved moral turpitude or that was committed in the course of the judge's duties. Instead, such a person would receive a refund of accumulated contributions. The bill increases the minimum judicial service eligibility requirement for disability retirement from two to four years and establishes a presumption that a judge who is the subject of a felony charge or who is subject to disciplinary proceedings is not disabled. The bill was enacted as Chapter 993.

Small Claims Jurisdiction
Assembly Bill No. 1913, introduced by Assembly Member Harris, increases small claims jurisdiction to $2,000 through January 1, 1991. After that date it increases to $2,500. Surety actions, however, remain limited to $1,500. The bill was enacted as Chapter 481.

Juries
Assembly Bill No. 2617, introduced by Assembly Member Harris, establishes a Trial Jury Selection and Management Act in the Code of Procedure. It encourages the appointment of a single jury commissioner for all courts in each county, modifies sanctions for those who fail to answer juror qualification questionnaires, and replaces categorical exemptions to jury service with a more flexible system of relief for public or private hardship. It also requires orientation for new jurors, prescribes new oaths, permits the use of legal counsel to meet challenges to jury panel selection methods, and clarifies provisions for prospective jurors who wish to be available on one-hour telephone notice to appear for service. The bill was enacted as Chapter 602.

Records Retention
Assembly Bill No. 3263 was introduced by Assembly Member Frazee to facilitate the purging of records in cases dismissed in connection with delay reduction activity. The bill permits records of civil actions to be destroyed without microfilming if no document other than a request for dismissal has been filed subsequent to the complaint. It also extends the minimum period of retention for records of DUI and reckless driving cases to seven years. The bill was enacted as Chapter 1173.

Senior Judge Status
Assembly Bill No. 3698, introduced by Assembly Member Harris at the request of the Judicial Council, permits judges who retired before the 1985 Senior Judge Act became operative, who have reached the age of 60, to apply for senior judge status. It also allows judges who reach the age of 60 and have 20 or more years of retirement service credit to apply for senior judge status. The bill was enacted as Chapter 1310.

Court Delay Reduction
Assembly Bill No. 3830, introduced by Assembly Member Willie Brown at the request of the Judicial Council, authorizes all superior courts to adopt rules under the Trial Court Delay Reduction Act. With the exception of counties that already have programs, courts electing to participate under the Trial Court Funding Act must follow uniform delay reduction guidelines to be adopted by the Judicial Council, and notify the Judicial Council of the election. The bill also permits delay reduction courts to impose procedural requirements in addition to those authorized by statute, and to shorten various deadlines. The bill was enacted as Chapter 1200.

Uniform Traffic Bail Schedule
Assembly Bill No. 3851, introduced by Assembly Member Duplissea, requires courts to set traffic bail within 20 percent above or below the Judicial Council uniform bail schedule. The bill requires update of the traffic bail schedule by the Judicial Council before January 1, 1989. The bill was enacted as Chapter 988.

Electronic Accusatory Pleading
Assembly Bill No. 3864, introduced by Assembly Member Frazee, authorizes a criminal complaint, notice to appear, or parking citation to be filed with the court electronically. The bill was enacted as Chapter 516.

CASA Programs
Assembly Bill No. 4445, introduced by Assembly Member Vasconcellos at the request of the Judicial Council, establishes an optional, state-assisted program of court-appointed special advocates for children. The bill directs the Judicial Council to establish a planning and advisory group and to adopt program guidelines and a request-for-proposal process to establish and maintain the programs. The bill was enacted as Chapter 723.

CHAPTER 15

SENTENCING PRACTICES ANNUAL REPORT

California Penal Code section 1170.6, enacted in 1976 as part of the determinate sentencing law, requires the Judicial Council to "continually study and review the statutory sentences and the operation of existing criminal penalties," and report its findings to the Governor and Legislature.

It also requires reports on pending legislation that may affect felony sentences. Those reports are sent to the Governor and Legislature during the legislative session by the Administrative Director of the Courts under authority delegated by the Judicial Council.

Impact of the Law on Plea Practices

After the operative date of the determinate sentencing law, July 1, 1977, dispositions by trial began to decrease and guilty pleas to increase relative to total dispositions in superior courts. This trend toward a smaller percentage of felony dispositions by trial continued, and may have increased slightly, after the adoption in June 1982 of Proposition 8, which included significant new penalties for repeat offenders, among other provisions.

While it is impossible to say with any certainty that either statutory change is the cause of the increase in guilty pleas and decrease in trials, that conclusion is suggested by the stability of the trial percentage during the years before these changes.

Dispositions by trial	
3 fiscal years ending June 30, 1977	16.7% (average of 16.6%, 16.9%, 16.5%)
fiscal year ending June 30, 1982	11.7%
fiscal year ending June 30, 1987	6.9%
fiscal year ending June 30, 1988	6.8%

	1978-79	*1987-88*	
Total Dispositions (defendants)	49,264	111,120	+ 126%
Convictions by plea	36,586	96,909	+ 165%
Trials	6,765	7,553	+ 12%

Criminal Case Dispositions in Superior Courts

		Pretrial			
Fiscal Year	*Total Dispositions**	*Total Pretrial*	*Guilty Pleas*	*Other Pretrial*	*Total Trials*
1978-79	49,264	42,499	36,586	5,913	6,765
1979-80	51,281	44,924	38,690	6,234	6,357
1980-81	58,314	51,826	45,082	6,744	6,488
1981-82	60,998	53,860	47,664	6,196	7,138
1982-83	67,261	59,461	52,933	6,528	7,800
1983-84	66,535	59,825	54,217	5,608	6,710
1984-85	74,591	68,479	63,121	5,358	6,112
1985-86	88,212	81,993	76,341	5,652	6,219
1986-87	**98,741	**91,965	**85,626	**6,339	6,776
1987-88	111,120	103,567	96,909	6,658	7,553
		Percent			
1978-79	100	86	74	12	14
1979-80	100	88	75	12	12
1980-81	100	89	77	12	11
1981-82	100	88	78	10	12
1982-83	100	88	79	10	12
1983-84	100	90	81	8	10
1984-85	100	92	85	7	8
1985-86	100	93	87	6	7
1986-87	100	93	87	6	7
1987-88	100	93	87	6	7

* Includes cases resulting in acquittal or dismissal or misdemeanor convictions.
** Revised.

Whatever the cause, the shift to disposition by plea has important workload implications for the courts. Over the past four fiscal years, total felony case dispositions rose from 66,535 to 111,120, a 67 percent growth, with increases of 12-13 percent in three of those years and an increase of 18 percent in another year. Despite this massive growth in caseload, trials went from 6,710 to only 7,553 in the same period, an increase of only 12.6 percent. Had the percentage of trials remained constant, the trial workload would have required great expansion of the courts.

Superior court time savings arising from reduced use of trial are offset, to a significant extent, by increased appellate workload as the determinate sentencing law becomes more complicated each year.

Dispositions and Length of Sentences

The Judicial Council has published sentencing data through December 1987 in the *Sentencing Practices Quarterly*. These publications include tables showing the type of disposition and length of prison sentences imposed upon conviction of commonly committed felonies. That information is summarized in tables titled "Prison Commitments Per 100 Convictions" and "Average Determinate Sentence Imposed" on the following pages, reproduced from the Quarterly covering 1987.

The first of these two tables shows that the rates of prison commitments for selected major crimes have not changed significantly in the past several years. The state total for all felonies is about 10 percent higher than it was in the late 1970s.

The table showing the average determinate sentence imposed for selected major crimes also indicates little significant change over the past few years, although changes in statutory penalties have caused longer term increases in sentences for voluntary manslaughter and rape.

Prison Commitments Per 100 Convictions, Selected Crimes, Six-Month Periods Ending December 1977 through June 1981, Six-Month Periods Ending June 1981 through December 1985, and Quarters Ending March 1987 through December 1987, California

		Crimes Against Persons				Crimes Against Property							Narcotics And Drug Laws			
						Burglary										
Time Period	State Total -All Felonies	Homicide (1)	Forcible Rape (2)	Robbery	Assault with a Deadly Weapon	First Degree	Second Degree	Grand Theft (3)	Grand Theft (Auto)	Forgery Stolen	Checks (NSF)	Receiving Stolen Property	Possession	Possession For Sale	Sale	All Drug Law Violations
Quarter Ending																
Dec. 31, 1987	44	92	94	78	48	71	51	34	50	39	28	40	32	40	34	34
Sept. 30, 1987	44	91	93	75	47	69	50	33	52	39	26	40	29	38	33	32
June 30, 1987	44	94	91	80	46	67	51	35	48	42	28	40	30	37	28	31
March 31, 1987	44	93	92	76	46	68	51	36	47	47	26	46	30	38	31	32
Six Months Ending																
Dec. 31, 1986	44	93	96	74	46	70	49	33	50	41	33	42	30	38	27	31
June 30, 1986	42	93	96	76	44	67	48	33	50	38	28	41	26	34	23	26
Dec. 31, 1985	42	91	94	77	44	67	50	31	48	43	26	41	26	35	24	26
June 30, 1985	43	92	94	78	46	68	50	33	47	42	32	39	23	35	26	25
Dec. 31, 1984	42	88	95	76	44	65	48	34	48	39	30	38	24	35	29	25
June 30, 1984	41	86	96	74	40	62	47	31	45	44	28	33	21	37	27	23
June 30, 1981	37	83	83	68	33	55	38	27	33	36	24	30	26	32	27	21
Dec. 31, 1980	36	79	80	65	33	47	36	25	35	38	23	28	29	40	29	21
June 30, 1980	35	79	85	64	33	45	36	29	34	33	23	29	28	41	28	21
Dec. 31, 1979	34	83	75	63	32	44	35	30	30	33	24	22	25	41	29	22
June 30, 1979	34	81	71	62	29	41	33	28	29	35	21	26	28	43	35	23
Dec. 30, 1978	34	80	71	64	28	44	35	26	33	38	19	23	36	44	32	26
June 30, 1978	33	80	64	63	30	41	32	21	28	35	19	24	33	49	31	24
Dec. 31, 1977	29	72	63	59	28	37	29	20	23	31	26	22	24	40	26	20
Approximate Convictions																
In 1987	98,600	1,300	600	5,500	4,000	6,200	7,000	3,000	3,800	1,800	800	3,600	13,000	5,800	7,200	39,600
In 1986	91,300	1,300	600	5,600	4,100	6,300	7,000	3,000	3,400	1,800	800	3,600	9,100	4,400	5,800	32,200
In 1985	77,100	1,100	700	5,600	3,700	5,700	6,800	3,000	2,800	1,700	700	3,400	5,400	2,700	3,000	22,600
In 1984	61,700	1,000	600	4,400	3,200	4,600	6,300	2,400	2,200	1,600	600	3,000	3,300	5,800	1,900	15,000

(1): For six-month periods through 1981, includes only second degree murder and voluntary manslaughter. First degree murder data were not available and thus could not be tabulated. First degree murder (and death penalties) are included in the 1984, 1985 and 1986 data.

(2): A high percentage of rape cases formerly received "other" dispositions. Most of those involved incarceration, either as a mentally disordered sex offender, or commitments to the Youth Authority. Probation was prohibited by Stats 1979, ch. 944, Pen. Code, 1203.065. Mentally disordered sex offender ("MDSO") commitments were prohibited for crimes committed after December 31, 1981 (Stats. 1981, ch. 928). Some MDSO commitments continue to come in on crimes committed before 1982.

(3): Amount over $200 through 1982, $400 thereafter or unspecified.

Average[1] Determinate Sentence Imposed, Selected Crimes, California

Average Determinate Sentence Imposed — In Years

	Voluntary Manslaughter	*Assault with a Deadly Weapon*	*Forcible Rape (not in concert)*	*Robbery*	*Burglary*		*Grand Theft[2]*	*Forgery*	*Receiving Stolen Property*	*Possession of Narcotics*
					First Degree	*Second Degree*				
Quarter Ending										
Dec. 31, 1987	8.0	3.8	16.3	4.9	4.3	2.1	2.2	2.2	2.1	1.8
Dec. 31, 1987	8.7	4.1	14.5	5.2	4.3	2.2	2.2	2.2	2.1	1.8
June 30, 1987	8.5	3.8	12.7	5.1	4.4	2.1	2.2	2.2	2.2	1.8
March 31, 1987	8.7	3.9	15.1	5.4	4.3	2.2	2.2	2.1	2.1	1.8
Dec. 31, 1986	8.2	3.9	15.3	4.8	4.4	2.1	2.2	2.3	2.3	1.8
Sept. 30, 1986	7.9	3.9	16.2	5.0	4.4	2.2	2.1	2.3	2.2	1.8
June 30, 1986	8.7	3.9	15.5	5.4	4.1	2.2	2.4	2.2	2.1	1.8
March 31, 1986	8.2	3.7	14.8	5.1	4.1	2.3	2.3	2.2	2.1	1.8
Dec. 31, 1985	7.4	3.8	14.5	5.0	4.3	2.3	2.0	2.3	2.1	1.9
Sept. 30, 1985	8.2	3.8	16.0	5.1	4.3	2.5	2.4	2.3	2.2	1.9
June 30, 1985	7.2	3.8	15.5	4.9	4.4	2.5	2.2	2.2	2.1	1.7
March 31, 1985	7.0	3.9	13.5	5.1	4.2	2.3	2.2	2.3	2.2	1.7
Dec. 31, 1984	7.2	3.8	12.0	4.9	4.2	2.5	2.2	2.3	2.1	1.9
Sept. 30, 1984	6.9	4.0	14.0	5.1	4.4	2.5	2.3	2.2	2.1	2.1
June 30, 1984	6.2	3.8	15.3	4.8	4.3	2.5	2.3	2.4	2.2	2.0
March 31, 1984	5.6	3.8	13.4	4.8	4.2	2.4	2.3	2.3	2.2	2.0
Dec. 31, 1983	5.5	4.0	12.3	5.1	4.4	2.4	2.2	2.4	2.2	2.1
Sept. 30, 1983	5.5	3.9	13.9	4.9	4.2	2.4	2.4	2.4	2.2	2.0
June 30, 1981	5.3	4.0	10.7	4.9	4.4	2.4	2.2	2.3	2.1	2.0
Mar. 31, 1981	5.1	3.9	9.9	5.0	4.3	2.4	2.4	2.4	2.2	2.1

[1] Average - (arithmetic mean)
[2] Grand theft - (over $200 through 1982, $400 thereafter or unspecified)

CHAPTER 16

TRIAL COURT COST AND REVENUE ESTIMATES

This report estimates California trial court costs and revenues for fiscal year 1988-89 and features assorted financing data concerning the state judicial system. Following a brief summary of the 1988-89 estimates and the effect of recently enacted trial court funding legislation on these estimates, the report presents the 1988-89 estimating methodology and the cost and revenue tables.

Summary of 1988-89 Estimates

Estimated trial court costs for 1988-89 totalled $1,006,295,000, an increase of 12.98 percent over the previous year's (1987-88) revised estimate of $890,655,000. The state's share of this amount is $299,700,000 or 29.8 percent of 1988-89 total trial court costs.

Apportionment of 1988-89 total trial court costs among judicial positions results in an annual "cost per judicial position" of $566,703 in superior court and $633,366 in municipal court. These trial court costs reflect county budgeted costs plus the direct state contribution to superior court judges' salaries and superior and municipal court judges' retirement.

Trial court revenues for 1988-89 are estimated to be $928,761,520. This is an increase of 7.1 percent per year for counties and 8.6 percent per year for cities over the actual collections reported to the State Controller for 1986-87.

Brown-Presley Trial Court Funding Act

Senate Bill No. 612 (Stats. 1988, ch. 945), as passed by the Legislature and signed by the Governor in September 1988, enacts the Brown-Presley Trial Court Funding Act. (See chapter 7 of this publication, *State Trial Court Funding Act*, for a comprehensive review of the provisions of the new law). In order for a county to receive state funding for trial court operations under the act, the county and the county's trial courts must decide to participate. Since the first option period begins January 1, 1989, the new funds for option counties will be available for the last half of the 1988-89 fiscal year. The state has budgeted $203,400,000 to fund the

program for the initial six-month period. The four fiscal components of the new program affecting trial court costs in 1988-89 are:

- The state will provide quarterly block grants of $53,000 per judicial position ($212,000 annually). For 1988-89 the maximum amount under this provision would be $106,000 per judicial position for the second half of the fiscal year. The 1988-89 state budget includes $177.8 million for these block grants.
- The state will pay option counties a supplemental block grant amount equal to their municipal court judges' salaries based on the existing formula of state participation in superior court judges' salaries. The 1988-89 state budget contains $20.1 million for this purpose.
- The state will pay additional block grant funds to option counties where new trial court judgeships created by 1987 legislation exceeded 10 positions (Los Angeles, San Diego, and Santa Clara). The additional amount will be based upon the actual annual county per-judge appropriation and subsequently reduced 25 percent per year. Thereafter, the standard block grant amount is maintained. The state has budgeted an estimated $4.5 million in 1988-89 for this purpose.
- The state budget includes $1.0 million for the initial funding of the trial court improvement fund during 1988-89.

The state budget includes $96.3 million for 1988-89 state assistance to the trial courts for existing programs. This includes $58.7 million for the states share of superior court judges' salaries and $25.1 million for superior and municipal court judges' retirement. In addition, $7.1 million was included for the annual $60,000 block grant program, which ceases when a county opts into trial court funding. Finally, about $5.4 million was budgeted for existing court-related legislative mandates.

In summary, the total budgeted amount of state assistance to the trial courts for 1988-89 is estimated to total $299.7 million, comprising $96.3 million in existing programs and $203.4 million provided under the Brown-Presley Trial Court Funding Act. The $299.7 million contribution for 1988-89 is $191.3 million above last year's (1987-88) total state contribution of $108.4 million. The amount of state assistance has increased from 11 percent of total trial court costs in 1987-88 to an estimated 29.8 percent of total trial court costs in 1988-89.

1988-89 cost and revenue estimating procedures

Below is a description of the procedures followed in estimating 1988-89 trial court costs and revenues, a process that has remained essentially the same for the past seven years. Trial court cost and revenue calculations appear on tables A-1 through A-6 and a summary of frequently requested court financing data is presented on B-1.

Definition of Trial Court Costs

The 1988-89 trial court cost estimates subscribe to the definition of "court operations" set forth in Government Code section 77003 and amplified in Rule 810 of the California Rules of Court.

Trial court costs include costs designated in county budgets for superior, municipal and justice courts, the county clerk's office and bailiffing personnel.[a] County-wide indirect costs attributable to court budget activities are calculated and applied. Indirect costs include county government functions, such as a personnel or purchasing office, whose costs are attributed to the courts by local prorated estimates.

Estimating total trial court costs requires the inclusion of direct contributions by the state for superior court judges' salaries and superior and municipal court judges' retirement. These costs are not included in county budgets. The attached estimates also report other categories of state assistance, including block grants, supplemental block grants, trial court improvement funds, $60,000 annual block grants for superior courts and reimbursement for specified legislative mandates.

Not included as trial court costs are items excluded from the definition of court operations, such as courthouse construction and site acquisition, specified law library operations, grand jury and pretrial release expenses, district attorney and probation services and indigent criminal defense except for juvenile court dependency hearings. Counties with populations under 350,000 are exempt from some of the above exclusions. However, the estimates in this report do not distinguish between counties above or below 350,000.

The complete exclusion of indigent criminal defense required adjustments in the 1988-89 cost estimating procedures. Prior years' estimates have consistently excluded public defender services but have included the services of private attorneys appointed by the court when the public defender cannot represent a defendant due to conflict or workload. The 1988-89 trial court cost estimates have excluded all private attorney services for indigent defense whenever it is identifiable in the budgets of the eight counties in the survey. This exclusion reduces 1988-89 trial court costs approximately $77.5 million.

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a For 1988-89 cost estimating purposes, bailiffing services are calculated on the basis of average compensation of one bailiff for each judicial position. Rule 810 has now been amended to remove this limitation.

Eight-county cost survey

Local trial court cost estimates are based on a survey of current court costs in eight counties. The results are extrapolated into statewide totals. The counties surveyed are Alameda, Fresno, Los Angeles, Orange, Sacramento, San Mateo, Santa Clara, and Ventura. Current budgets (1987-88) from those counties were obtained and carefully reviewed along with supplemental data supplied by county budget, personnel, and auditor offices.

The superior courts in the eight survey counties have 498 authorized judicial positions comprising 59.9 percent of the total superior court judicial positions in the state for 1987-88. Local 1987-88 costs in these eight counties for superior courts, including county clerks, bailiffs, and indirect costs, totaled $230.9 million. When extrapolated statewide and added to direct state assistance, this amount is 12.90 percent below the 1987-88 estimate. The effects of the 12.90 percent decrease on last year's 1987-88 superior court estimates are set forth on attachment A-2 entitled Revised 1987-88 Summary of Total Estimated Trial Court Costs. The principal cause of this decrease was the exclusion of costs for court-appointed private counsel for indigents in conformance with statutes and California Rule of Court 810 as discussed above.

There were 41 municipal courts in the eight survey counties with 443.5 authorized judicial positions comprising 61.6 percent of the total judicial positions in all municipal courts. The sum total of local 1987-88 municipal court expenditure estimates in these eight counties totaled $245.1 million. When this amount is extrapolated statewide and added to state assistance the result is 5.48 percent below last year's 1987-88 cost projection. The effect of the 5.48 percent decrease on last year's 1987-88 municipal court estimates are set forth on attachment A-2. Again, the principal reason for this decrease was exclusion of budget amounts to compensate court appointed private attorneys for indigent defense.

1988-89 cost adjustment

The 1988-89 estimated trial court costs are presented on attachment A-1. Total 1988-89 trial court costs are 12.98 percent above the revised 1987-88 estimates on attachment A-2. The county share of trial court costs is 12.04 percent above the 1987-88 revised estimates. The 12.04 percent adjustment represents the average annual increase of trial court expenditures in the eight survey counties over a ten-year period, 1977-78 through 1986-87, as reported in the State Controller's *Report of Financial Transactions*. The state share of estimated trial court costs is from the 1988-89 Governor's Budget and Final Budget Summary and can be examined in more detail on attachment A-5.

Cost per judicial position

Trial court cost data is arranged so that total trial court costs are apportioned among total judicial positions for municipal and superior courts (see attachments A-1 through A-4). Total judicial positions includes judges, referees, and commissioners. Therefore, each judicial position represents an equal share of total trial court costs.

The cost per judicial position includes not only the salary and benefits for the judicial position itself but also a proportionate share of all costs of nonjudicial positions, services and supplies and countywide indirect costs attributable to the courts. Finally, the cost of a bailiff and a court reporter position are added to the above to provide the total costs assignable to each judicial position.

The division of trial court costs into annual costs per judicial position allows for a further breakdown into costs per judicial case-related minute, hour and day as illustrated in attachments A-3 and A-4. This is possible because of data accumulated by the Judicial Council weighted caseload studies, such as the minutes per year and days per year that are available for case-related work for the average judicial position. This type of detail is very useful when estimating the additional court costs that may be required by a legislative proposal that would add minutes or hours of time to a judicial proceeding or impose a new judicial duty.

Justice court costs are not presented in the same detail as superior and municipal courts because they account for only a small portion of the workload of the trial courts. Also, nearly all justice court judges are part-time and a cost per judicial position would not be applicable. Therefore, justice court costs are presented as a lump-sum amount, approximately equivalent to their share of the lower courts' workload.

Cost components

Trial court cost data has been segregated into six cost categories: judicial salaries and benefits; nonjudicial salaries and benefits; services and supplies; indirect costs; and costs for court reporters and bailiffs. A brief description of these court cost components follows.

Judicial salaries and benefits

Judicial salaries are the annual statutory salaries for municipal and superior court judges as of the latest authorized adjustment. The state share of superior court judges' salaries is included, currently ranging from $75,265 to $79,265 per year depending on the size of the county.

Salaries for court commissioners and referees are included at 25 percent below the salary of a judge in municipal courts and 15 percent below the salary of a judge in superior courts. Compensation figures for these positions are included in this category because these court officers are available to handle matters otherwise requiring an equivalent number of judges.

Health and retirement benefit rates are calculated to be 27.6 percent for superior court judges and 28 percent for municipal court judges.

Superior court judge benefits include approximately 5.9 percent of salary for health-related insurance, an employer retirement contribution rate of 8 percent, plus a pro rata share of the annual state budget appropriation to the retirement fund equivalent to an additional 13.7 percent of salary.

Municipal court judge benefits include about 6.3 percent of salary for health-related insurance and employer retirement contribution rates identical to superior court judges, i.e., 8 percent plus 13.7 percent of the pro rata share of the annual budget appropriation to the retirement fund.

Benefits for commissioners and referees are calculated on the same basis as for nonjudicial employees generally.

Nonjudicial salaries and benefits

Nonjudicial personnel includes all positions that provide support to the judicial function. For the superior court it includes court-related positions in the county clerk's budget as well as those positions budgeted directly in the superior court. A partial list of support personnel includes court administrators, jury commissioners, secretaries, stenographers, courtroom clerks, calendar clerks, data processing and microfilming personnel, deputy clerks, clerk typists, accountants, cashiers and counter clerks.

The positions of court reporter and bailiff are costed separately so as to remain identifiable from other nonjudicial position costs. Costs of these positions are discussed below.

Benefits for trial court nonjudicial personnel are estimated to be approximately 25 percent. This is in keeping with the county employee benefit rates generally throughout the state.

Services and supplies

The "services and supplies" category of trial court expenditures includes traditional operating expenses such as office supplies, printing, postage, telephone, and travel. Other costs unique to court operations include jury expenses, expert witness fees and professional services of doctors. Within "services and supplies," most counties typically include direct charges for some central service-type costs such as data processing, vehicle use, and sometimes building rent including costs for security and maintenance. Other countywide central service costs are considered indirect costs and are discussed as a separate cost component below.

Also included within the cost component of services and supplies are expenditures for office equipment and furnishings. These costs are categorized as "fixed assets" in most county budgets and are identified separately from services and supplies. However, because these amounts are a minor part of total annual expenditures and tend to fluctuate from year to year, we have elected to include these costs within the larger category of services and supplies. As noted previously, however, major capital outlay expenditures for such purposes as courthouse construction and site acquisition are not included in trial court costs.

Indirect costs

This expenditure category allows for a share of centralized county services used by the courts to be included in the total operational costs of the courts. Although counties direct charge some countywide central service costs, as noted above, often these costs are incorporated into a countywide cost allocation plan and charged to the courts as indirect costs.

The countywide central service plans, as applied to the courts, may include such costs as purchasing, stores, personnel, auditing, disbursements, payroll, budget preparation and execution, messenger service, grant coordination, office machine maintenance, communications, parking lot maintenance, records retention, liability and bonding insurance, and rent, security and maintenance of court facilities.

However, significant variations exist among counties as to which items are considered indirect costs and which items are considered direct charges and thus appear as budgeted expenditures.

An indirect cost rate is developed by obtaining the latest actual indirect annual costs charged to the courts including the county clerk function and any other court-related budget units by the county auditor. The actual indirect cost amounts related to all municipal and superior courts are totaled and the percentage or rate of total court expenditures is determined.

Often, this indirect rate is derived by using salaries and wages as the base. However, for ease of calculation, an equivalent rate based on total court expenditures has been developed. The rate, based on 1987-88 data from surveyed courts, is 7.7 percent for superior courts and for municipal courts 13.8 percent.

Court reporters

The annual cost of a court reporter in the superior courts is based on the average salaries and benefits of full-time reporters in the superior courts surveyed. Costs are based on a ratio of one full-time court reporter for each judicial position in the superior court.

For municipal courts, an equivalent annual salary was computed. Past studies conducted by the Judicial Council have indicated that court reporters were involved in approximately 40 percent of the daily activities of municipal courts.

The benefit rate for court reporters was calculated the same as other nonjudicial employees.

Bailiffs

Bailiffing costs are computed on a ratio of one bailiff for each judicial position for both municipal and superior courts. Coverage for vacations, illnesses and other time off may require an increase in the ratio. Approved costs for court operations itemized in California Rule of Court 810 allows sheriffs, marshals, and constables as the court deems necessary with designated limitations. Efforts will be made by staff in the next year to attempt to collect bailiffing costs as defined in Rule 810.

Average salaries and benefits for bailiffs were based on telephone inquiries to survey counties.

State judicial budget

Attachment A-5 is a summary of the various program categories that comprise the state judicial budget as included in the Governor's Annual Budget. Those categories are grouped into state operations and local assistance.

State judicial operations include Supreme Court, Courts of Appeal, Judicial Council and Commission on Judicial Performance.

Local assistance comprises the state's total contribution to trial court funding. This includes trial court funding block grants, supplemental municipal court salary grants and trial court improvement funds commencing January 1, 1989, in option counties. State funds for the major portion of superior court judges salaries and contributions to the judges' retirement fund are also included as well as funding for selected programs mandated on the trial courts by the state. Finally, the $60,000 annual block grants for superior court judgeships created after January 1, 1973, continues to January 1, 1989, and then ceases for counties opting into the trial court funding program.

The local assistance amounts are included within the total estimated trial court costs for 1988-89 as presented on attachment A-1.

Trial court revenues

Attachment A-6 contains 1988-89 estimates of trial court revenues. The estimates are based on 1986-87 actual amounts. The 1986-87 "actuals" are from two sources. The revenue to counties and cities is from the State Controller's *Annual Report of Financial Transactions*. Revenues to the state are from the *Governor's Budget* as reported in various penalty assessment funds and the Judges' Retirement Fund. A minor amount in fines is received by the state as miscellaneous revenue and an estimate is included for this item.

The 1987-88 and 1988-89 projections for trial court revenues to cities and counties are based on the average rate of increase in court revenues realized in the two preceding years, i.e., 1985-86 and 1986-87. The average annual increase projected for counties is 7.1 percent and for cities the average annual projected increase is 8.6 percent.

The revenue amounts distributed to the state for 1988-89 are from the Governor's Budget with the miscellaneous revenue from court fines estimated independently.

Court Financing Summary

The Court Financing Summary includes total California court costs including state judicial operations, state assistance to trial courts, and local trial court costs. Also presented are calculations of court costs as a percent of budget expenditures for various levels of government.

Other portions summarize trial court costs by level of court and the degree of state and local funding for each level of court; trial court costs apportioned to each judgeship in superior and municipal courts and the state and county shares for each additional position; and trial court revenues by type and amounts distributed to counties, cities and state.

ATTACHMENT A-1

Summary of Total Estimated Trial Court Costs[a] 1988-89

Courts	*Estimated Average Annual Cost Per Judicial Position*	*Judicial Positions*	*Estimated Total Trial Court Costs*
Superior Courts			
Judicial Position ($84,765+27.6%)	$108,160		
Nonjudicial Personnel	199,313		
Services and Supplies	128,659		
Subtotal	$436,132		
Indirect Costs (7.7%)	33,582		
Total Costs Excluding Court Reporter and Bailiff	$469,714		
Total Costs Including Court Reporter and Bailiff	$566,703	904.5 jud. pos. (789 judges)	$ 512,585,000
Municipal Courts			
Judicial Position ($77,409+28.0%)	$ 99,084		
Nonjudicial Personnel	239,678		
Services and Supplies	158,540		
Subtotal	$497,302		
Indirect Costs (13.8%)	68,628		
Total Costs Excluding Court Reporter and Bailiff	$565,930		
Total Costs Including Court Reporter and Bailiff	$633,366	734 jud. pos. (601 judges)	$ 464,890,000
Justice Courts		76 p.t. jud. pos. (45.5 FTE)	$ 28,820,000
Total All Trial Courts			[b]$1,006,295,000

a 1988-89 total trial court costs are 12.98% above the revised 1987-88 total on page A-2. County costs were adjusted 12.04% for 1988-89. State costs are based on the 1988-89 Governor's Budget and subsequent legislative action. Judges' salaries are included at the January 1, 1988, level.

b Included in this amount is the state's contribution to the trial courts of $299.7 million. See page A-5 of this appendix for detail of state's share of costs.

ATTACHMENT A-2

Summary of Total Estimated Trial Court Costs[a] Revised 1987-88

Courts	*Estimated Average Annual Cost Per Judicial Position*	*Judicial Positions*	*Estimated Total Trial Court Costs*
Superior Courts			
Judicial Position ($81,505+29.4%)	$105,467		
Nonjudicial Personnel	194,494		
Services and Supplies	125,540		
Subtotal	$425,501		
Indirect Costs (7.7%)	32,764		
Total Costs Excluding Court Reporter and Bailiff	$458,265		
Total Costs Including Court Reporter and Bailiff	$548,676	831 jud. pos. (725 judges)	$455,950,000
Municipal Courts			
Judicial Position ($74,432+29.8%)	$ 96,613		
Nonjudicial Personnel	220,566		
Services and Supplies	148,434		
Subtotal	$465,613		
Indirect Costs (13.8%)	64,255		
Total Costs Excluding Court Reporter and Bailiff	$529,868		
Total Costs Including Court Reporter and Bailiff	$593,697	687 jud. pos. (567 judges)	$407,870,000
Justice Courts		79 p.t. jud. pos.	$ 26,835,000
Total All Trial Courts			[b]$890,655,000

a Revised 1987-88 total trial court cost estimates were reduced 9.43% based on final 1987-88 county budgets, modifications in cost categories (see text), and other updated supplemental state and county data. Superior courts were reduced 12.90% and municipal courts were reduced 5.48%.

b Included in this amount is the state's contribution to the trial courts.

ATTACHMENT A-3

Superior Courts' Total Estimated Costs Per Judicial Position 1988-89

Cost Category	*Estimated Average Annual Cost Per Judicial Position*	*Average Cost Per Case-Related Minute*[a]	*Average Cost Per Case-Related Hour*[a]	*Average Cost Per Case-Related Day*[a]
Judicial Position (1-1-88 $84,765+27.6%)	$108,160	$1.4357	$ 86.14	$ 494
Nonjudicial Personnel	$199,313	$2.6457	$158.74	$ 910
Services & Supplies	$128,659	$1.7078	$102.468	$ 587
Subtotal	$436,132	$5.7892	$347.35	$1,991
Indirect Costs (7.7%)	$ 33,582	$0.4458	$ 26.75	$ 153
Total Cost Apportioned to Each Judicial Position (court reporter and bailiff excluded)	$469,714	$6.2350	$374.10	$2,144
Total Cost Apportioned to Each Judicial Position (court reporter and bailiff included)	$566,703	$7.5223	$451.34	$2,588

a An estimated 219 days per year or 75,336 minutes per year are available for case-related activity for each judicial position in the superior courts.

ATTACHMENT A-4

Municipal Courts' Total Estimated Costs Per Judicial Position 1988-89

Cost Category	*Estimated Average Annual Cost Per Judicial Position*	*Average Cost Per Case-Related Minute*[a]	*Average Cost Per Case-Related Hour*[a]	*Average Cost Per Case-Related Day*[a]
Judicial Position (1-1-88 $77,409+28.0%)	$ 99,084	$1.3282	$ 79.69	$ 459
Nonjudicial Personnel	$239,678	$3.2128	$192.77	$1,110
Services & Supplies	$158,540	$2.1252	$127.51	$ 734
Subtotal	$497,302	$6.6662	$399.97	$2,303
Indirect Costs (13.8%)	$ 68,628	$0.9199	$ 55.19	$ 318
Total Cost Apportioned to Each Judicial Position (court reporter and bailiff excluded)	$565,930	$7.5861	$455.16	$2,621
Total Cost Apportioned to Each Judicial Position (court reporter and bailiff included)	$633,366	$8.4902	$509.41	$2,932

a An estimated 216 days per year or 74,600 minutes per year (78,000 Los Angeles) are available for case-related activity for each judicial position in the municipal courts.

ATTACHMENT A-5

1988-89 Proposed State Judicial Budget (Million $)

Supreme Court	$13.1
Courts of Appeal	74.8
Judicial Council	21.4
Commission on Judicial Performance	1.1
Judges Retirement Fund (Appellate Courts)	2.1
Unallocated Reduction	(3.3)
Total State Judicial Operations	$109.2
Trial Court Funding Block Grants	$182.3
Supplemental Municipal Court Judges' Salary Grants	20.1
Trial Court Improvement Fund	1.0
Superior Court Judges' Salary	58.7
Superior Court Block Grants ($60,000)	7.1
Judges' Retirement Fund	
Superior Courts, estimated $14.8	
Municipal Courts, estimated $10.3	25.1
State Mandates – Local Assistance	5.4
Total Local Assistance	$299.7[a]
Total 1988-89 State Judicial Budget	$408.9 (million)

a These items totaling $299.7 million are the State's contribution to the funding of the trial courts. This amount is included within the total estimated trial court costs for 1988-89 as displayed on page A-1 of this appendix.

ATTACHMENT A-6

Trial Court Revenues
Actual 1986-87
Estimated 1988-89[a]

	1986-87 Actual	1988-89 Estimated
To Counties[b]		
Fines, Forfeitures, Penalties		
Vehicle Code Fines	$136,842,360	[c]$156,963,797
Other Court Fines	81,559,529	93,552,124
Forfeitures and Penalties	56,267,983	64,541,683
Charges for Current Services		
Civil Process Services	16,892,017	19,375,836
Court Fees and Costs	136,032,585	156,034,952
Total	$427,594,474	$490,468,392
To Cities[b]		
Fines and Penalties		
Vehicle Code Fines	$161,683,825	[d]$190,689,256
Other Fines, Forfeitures & Penalties	67,763,391	79,919,872
Total	$229,447,216	$270,609,128
To State of California[e]		
Assessments on Fines	$119,144,000	[f]$160,584,000
Court Fees (Judges' Retirement Fund)	4,118,000	4,100,000
Court Fines (estimates of state share of specified violations of Bus. & Prof. Code and Health & Safety Code)	3,000,000	3,000,000
Total	$126,262,000	$167,684,000
Summary		
To Counties	$427,594,474	$490,468,392
To Cities	229,447,216	270,609,128
To State	126,262,000	167,684,000
Total	$783,303,690	$928,761,520

a Revenue to counties has been adjusted 7.1% per year for 1987-88 and 1988-89. That is based on the average annual increase of trial court revenues to the counties for the two preceding years. Revenue to cities has been adjusted 8.6% per year for 1987-88 and 1988-89 based on the average annual increase of trial court revenues to cities for the two preceding years. Revenue to the state is from the 1988-89 Governor's Budget except for court fines, which have been estimated independently.

b Source: *State Controller's Reports – Financial Transactions Concerning Counties and Cities*. (Adjustment made to reflect San Francisco County under "Counties" instead of "Cities.")

c 50% Vehicle Code Fines restricted as to use per Vehicle Code § 42201.

d All Vehicle Code Fines restricted as to use per Vehicle Code § 42200.

e Governor's Budget and Judicial Council estimates.

f Fine assessments are designated by statute for specific purposes. The 1986-87 and 1988-89 distribution and amounts from the Governor's 1988-89 budget are as follows:

	1986-87	1988-89
Peace Officers Training Fund	$ 33,034,000	$ 37,369,000
Driver Training Penalty Assessment Fund	33,455,000	40,036,000
Fish and Game Preservation Fund	452,000	512,000
Restitution (Indemnity) Fund	26,583,000	56,070,000
Corrections & Probation Training Fund	10,874,000	12,281,000
Local Public Prosecutors and Public Defender Training Fund	850,000	850,000
Victim/Witness Assistance Fund	11,918,000	13,466,000
	$119,144,000	$ 160,584,000

ATTACHMENT B-1

Court Financing Summary 1988-89

Total Court Costs by Funding Source (State and Local)		
State Judicial Operations[a]	$ 109.2 million	9.8%
State Assistance to Trial Courts[b]	299.7	26.9
Total State Costs	$ 408.9	36.7%
County Costs (Trial Courts)	706.6	63.3
Total Court Costs (est.)	$ 1,115.5 million	100.0%
Total Court Costs as Percent of Total Budget Expenditures		
Total Court Costs Funded by State as Percent of Total State General Budget[c]		1.0%
Total Court Costs as Percent of Total State General Budget[d]		2.7%
Total Court Costs as Percent of Total Estimated State and Local Budget Expenditures[e]		1.5%
Trial Court Costs by Level of Court		
Superior Courts	$ 512.6 million	50.9%
Municipal Courts	464.9	46.2
Justice Courts	28.8	2.9
Total Trial Court Costs (est.)	$ 1,006.3 million	100.0
Trial Court Costs by Funding Source (State and Local)		
Superior Courts		
County Costs	$ 329.2 million	64.2%
State Assistance[f]	183.4	35.8
Total Superior Court Costs (est.)	$ 512.6 million	100.0%
Municipal Courts		
County Costs	$ 353.5 million	76.0%
State Assistance[g]	111.4	24.0
Total Municipal Court Costs (est.)	$ 464.9 million	100.0%
Justice Courts		
County Costs	$ 23.9 million	83.0%
State Assistance[h]	4.9	17.0
Total Justice Court Costs (est.)	$ 28.8 million	100.0%
Total All Trial Courts		
County Costs	$ 706.6 million	70.2%
State Assistance	299.7	29.8%
Total Trial Court Costs (est.)	$ 1,006.3 million	100.0%

Average Costs Per Superior Court Judgeship	
County Costs	$327,832
State Assistance[1]	238,871
Cost Per Judgeship (est.)	$566,703
Average Costs Per Municipal Court Judgeship	
County Costs	$474,567
State Assistance[1]	158,799
Cost Per Judgeship (est.)	$633,366
Trial Court Revenue By Type	
Fines, Forfeitures and Penalties	$588.7 million
Assessments on Fines	160.6
Civil Filing Fees and Costs	160.1
Civil Process Services	19.4
Total Revenue (est.)	$928.8 million
Distribution of Trial Court Revenue	
To Counties	$490.5 million
To Cities	270.6
To State	167.7
Total Revenue (est.)	$928.8 million

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a State judicial operations include the Supreme Court, Courts of Appeal, Judicial Council, and Commission on Judicial Performance.

b State assistance to the trial courts includes trial court funding block grants @ $53,000 per quarter per judicial position in option counties, supplemental salary grants for the major portion of municipal court judges' salaries in option counties, a trial court improvement fund initially funded @ $1 million, a major portion of superior court judges' salaries, $60,000 annual block grant for superior court judgeships created since January 1973 (not available to counties that opt into trial court funding), contributions to the Judges' Retirement Fund and reimbursements for certain legislative mandates.

c State's share of total court costs is $408.9 million. State general budget is $41.3 billion. Thus $408.9 million/$41.3 billion = 1.0%.

d Total court expenditures are $1.1155 billion. State general budget is $41.3 billion. Thus $1.1155 billion/$41.3 billion = 2.7%.

e The Controller's Office reports the following local government expenditures:

1986-87 county expenditures exclusive of enterprise and bond funds	$ 16.818 billion
1986-87 city expenditures exclusive of enterprise and bond funds	11.499
1986-87 special district expenditures non-enterprise activities only	5.381
1986-87 school district expenditures	20.406
Total local expenditures	$ 52.104 billion
Application of 10.6% per year average increase for 87-88 and 88-89	63.735 billion
Add state budget less local assistance	12.003
Total state and local expenditures	$ 75.738 billion
Thus, $1.1155 billion/$75.738 billion =	1.5%

f State assistance to superior courts includes:

(1)	Trial court funding block grants - option counties (half year)	$ 97.9 million
(2)	Trial court improvement fund (estimate one half to superior courts)	0.5
(3)	Contribution to superior court judges' salary	58.7
(4)	Block grants ($60,000)	7.1
(5)	Judges' Retirement Fund (8% of salary plus)	14.8
(6)	Legislative Mandates	4.4
	Total	$ 183.4 million

g State assistance to municipal courts includes:

(1)	Trial court funding block grants - option counties (half year)	$ 79.5 million
(2)	Supplemental grants for major portion of municipal court judges' salary in option counties (half year)	20.1
(3)	Trial court improvement fund (estimate one half to municipal courts)	0.5
(4)	Judges' Retirement Fund (8% of salary plus additional appropriation to meet liabilities)	10.3
(5)	Legislative Mandates	1.0
	Total	$ 111.4 million

h State assistance to justice courts includes trial court funding block grants in option counties (half year) estimated at $4.9 million.

i The calculation of state assistance for each superior court judgeship is as follows:
(1) Trial court funding block grant for option counties @ $53,000 per quarter commencing January 1, 1989. Thus two quarters for 1988-89 = $106,000 per judgeship.
(2) Trial court improvement fund-superior courts initial estimated share of $500,000 or $553 per judgeship.
(3) State pays salary except for fixed county share of $9,500 for counties over 250,000 population; $7,500 for counties between 40,001 - 249,999 population; and $5,500 for counties 40,000 population or under. The calculation here is based on the larger-sized county. Thus, the current annual salary of $84,765 less $9,500 = $75,265 as the state share.
(4) Annual block grants of $60,000 for support costs will be phased out as counties opt into state funding. Phase out share this year approximates $30,000 per judgeship.
(5) 8% of salary to Judges' Retirement Fund ($84,765 @ 8% = $6,781) plus a pro rata share of the budget act appropriation made each year to meet liabilities of the fund ($11,618) plus 4.47% of salary for health and welfare ($3,789) for a total of $22,188.
(6) Pro rata share of legislative mandates @ $4,865. The total amount of state assistance per superior court judgeship as calculated here for 1988-89 fiscal year totals $238,871.

j The calculation of state assistance for each municipal court judgeship is as follows:
(1) Trial court funding block grant for option counties @ $53,000 per quarter commencing January 1, 1989. Thus two quarters for 1988-89 = $106,000 per judgeship.
(2) Supplemental grants for municipal court judges' salary in option counties based on the same salary contribution formula as for superior court judges commencing January 1, 1989. Thus for a larger-sized county (over 250,000 population) the supplemental grant would be $77,409 less $9,500 or $67,909 for a full year. One half year is $33,955.
(3) Trial court improvement fund - municipal courts initial estimated share of $500,000 or $681 per judgeship.
(4) 8% of salary to Judges' Retirement Fund ($77,409 @ 8% = $6,193) plus a pro rata share of the budget act appropriation made each year to meet liabilities of the fund ($10,608) for a total of $16,801.
(5) Pro rata share of legislative mandates @ $1,362. The amount of state assistance per municipal court judgeship as calculated here for 1988-89 fiscal year totals $158,799.